

1 Date: August 31, 2015

ORIGINAL



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3 To: Docket Control

4 Arizona Corporation Commission

5 1200 West Washington St. 2015 AUG 31 P 12: 15

6 Phoenix, AZ 85007

AZ CORP COMMISSION
DOCKET CONTROL

8 From: Robert T. Hardcastle
9 Circle City Water Co LLC

12 FOR FILING ORIGINAL AND 13 COPIES INTO:

14 DOCKET NO. W-03510A-13-0397

21 By:

22 Robert T. Hardcastle

Arizona Corporation Commission

DOCKETED

AUG 31 2015

DOCKETED BY

MLB

BEFORE THE ARIZONA CORPORATION COMMISSION

Robert T. Hardcastle
Circle City Water Company, LLC
P.O. Box 82218
Bakersfield, CA 93380-2218
Representing Itself In Propia Persona

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AZ CORP COMMISSION
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Susan Bitter Smith, Chairman
Bob Burns, Commissioner
Doug Little, Commissioner
Bob Stump, Commissioner
Tom Forese, Commissioner

IN THE MATTER OF THE)
APPLICATION OF CIRCLE CITY)
WATER COMPANY, LLC FOR)
DELETION OF A PORTION OF ITS)
EXISTING CERTIFICATE OF)
CONVENIENCE AND)
NECESSITY FOR WATER SERVICE)

Docket No. W-03510A-13-0397

**CIRCLE CITY WATER
COMPANY LLC's NOTICE OF
FILING DIRECT TESTIMONY**

Circle City Water Company LLC ("Circle City") hereby files the Direct Testimony
of Robert T. Hardcastle, Managing Member, of Circle City.

RESPECTFULLY SUBMITTED this 28th day of August 2015.

Circle City Water Company, LLC

By:

Robert T. Hardcastle

In Propia Persona

1 ORIGINAL and 13 copies filed
2 this 28th day of August 2015, with:
3

4 **Docket Control**

5 **Arizona Corporation Commission**

6 **1200 West Washington St.**

7 **Phoenix, AZ 85007**
8

9 And copies mailed to the following:

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21 Robert T. Hardcastle
22 Circle City Water Company, LLC

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 Robert T. Hardcastle
4 Circle City Water Company, LLC
5 P.O. Box 82218
6 Bakersfield, CA 93380-2218
7 *Representing Itself In Propria Persona*
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14 Tom Forese, Commissioner
15

16 IN THE MATTER OF THE)	Docket No. W-03510A-13-0397
17 APPLICATION OF CIRCLE CITY)	
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22 NECESSITY FOR WATER SERVICE)	
23 _____)	

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25 DIRECT TESTIMONY
26 OF

27
28 ROBERT T. HARDCASTLE
29 MANAGING MEMBER

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31 CIRCLE CITY WATER COMPANY LLC

32
33 AUGUST 31, 2015
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DIRECT TESTIMONY
OF
ROBERT T. HARDCASTLE
MANAGING MEMBER
CIRCLE CITY WATER COMPANY LLC.
DOCKET W-03510A-13-0397

AUGUST 31, 2015

I. INTRODUCTION:

Q1: Please state your name, occupation, and business address.

A1: My name is Robert T. Hardcastle. I am an owner and President of Brooke Utilities, Inc. ("Brooke") and Managing Member of Brooke Resources, LLC owner of Circle City Water Company LLC ("CCWCo"). My business address is 3101 State St., Bakersfield, CA 93308.

Q2: Briefly describe your responsibilities as President of Brooke Utilities, Inc. and Managing Member of Brooke Resources, LLC.

A2: I am responsible for the financial, managerial, administrative, operational, and regulatory compliance and performance of Brooke Utilities, Inc. and two subsidiary Arizona public service companies.

Q3: Please describe your educational background and professional experience.

A3: I received a Bachelor of Arts degree in economics from University of California, Los Angeles in 1976; a Master's degree in business finance from The Drucker School, Claremont Graduate University in 1984; I have completed numerous post-graduate classes and credits at the University of California, Berkley (2006-2009) in international environmental regulation; and, attended law school from 1992-1994 at the California Pacific School of Law.

I have operated in my current capacity and primary responsibilities for Brooke Utilities, Inc. and its related companies, numerous subsidiaries and affiliates continuously since October 1995 in Arizona. I also operate as an officer for two international subsidiaries which I co-founded with colleagues

from our corporate parent. I regularly attend various water utility industry conferences and educational programs and successfully graduated from the National Association of Regulatory Commissioners ("NARUC") rate school twice in 1999 and 2005. Since 1995 I have been closely involved in no less than seven rate applications of Class B, C, and D water utilities and testified at regulation hearings and proceedings on numerous occasions.

II. PURPOSE OF TESTIMONY

Q4: What is the nature and scope of your testimony?

A4: I am testifying as the primary officer representing CCWCo in Docket W-03510A-13-0397 and prepared the Application for Deletion of the Certificate of Convenience and Necessity ("CC&N"), which is the subject of this proceeding, and responded to the various pleadings related to that Docket including the recently filed Response to the Motion to Dismiss. I also prepared the Application for Extension of the CC&N in related Dockets W-03510A-05-0146 and W-03510A-05-0145 in 2005. I have been closely involved with all the parties in this proceeding for many years and wrote or co-wrote most of the documents related thereto.

Q5: Please summarize your position as it relates to CCWCo and the Lake Pleasant 5000 Project (the "Project").

In late 2004 I responded to inquiries from representatives at Harvard Investment Inc. ("Harvard") concerning their interest in developing a large project near our CCWCo water system located in northwest Maricopa County. Our discussions and efforts culminated in an Application to extend CCWCo's CC&N approximately five miles north to encompass the Project. Ultimately, the Arizona Corporation Commission ("ACC or Commission")

approved the Application and issued Decision No. 68246 dated October 25, 2005. Although CCWCo was a small water utility company serving about 170 customers at the time, Harvard assured CCWCo and the Commission of its intent to immediately develop the Project and service its prospective 10,000 new customers. CCWCo regarded the Project as an opportunity to better serve its existing customers and, at the same time, extend its business interests on a larger scale. At the time CCWCo argued forcefully against the additionally imposed ACC condition that “positive impact” of the existing customers must be proven in its next rate case. CCWCo desperately needed rate relief since customer rates had not been modified since 1988¹. The ACC “positive impact” condition presumed that rate relief would be forthcoming to CCWCo as soon as the Project was under way and interconnection facilities between the new and existing water system could be proven to provide a supply, storage, and infrastructure redundancy to its existing customers. CCWCo was unsuccessful in arguing against the “positive impact” condition with the ACC and, today, still suffers from the imposition of that condition. Much to the surprise of all the parties Harvard never developed the Project. Whether Harvard ever really intended to develop the Project, or not, is unknown. Hopefully, some light will be shed on that question in this proceeding. After no contact, status update, or other communication from Harvard for nearly eight years, CCWCo engaged Harvard in April 2013 as to the status of the Project. Harvard explained to CCWCo that the Project was no longer viable, little work had been done on the Project, no construction of Project facilities had been started, and that it could not determine whether the Project would ever be developed or not. Harvard indicated that it had not yet even developed a construction schedule

¹ See Exhibit 6, Staff Report dated June 28, 2005, at page 1, second paragraph

for the Project. Harvard agreed with CCWCo that the Project needed to be unwound and terminated immediately and volunteered to support this effort by paying for as much as half of the legal, engineering, and other expenses related to such an unwinding. Harvard is the controlling owner of the Project and CCWCo had no reason to believe that Harvard could not make this decision. As a consequence of that meeting CCWCo engaged counsel and professional engineering staff to begin termination of the Project. Four months later, Harvard informed CCWCo that its non-controlling partner in the Project, heretofore completely unknown and undisclosed to CCWCo, determined the Project was viable. Harvard reasserted its demand for water service for the Project under the previously made arrangements. The parties tried to negotiate a settlement but those efforts were not successful. Surprisingly, Harvard also offered to sell the Project to CCWCo which, in my opinion, suggests its level of confidence in the Project's viability.

Q6: What has been the impact on CCWCo of Harvard's failure to develop the project as the various parties expected in 2005?

A6: The impact on CCWCo has been devastating. The financial impact of this matter has left CCWCo in a position to question whether it is a fit and proper entity to ever serve more customers than it currently serves. It is difficult to imagine how CCWCo could ever fully recover from the impact of the last ten years.

Q7: What are CCWCo's annual revenues from water sales and customer accounts?

A7: Approximately \$63,000 per year.

Q8: What have been CCWCo's operating losses during the period since Decision No. 68246 has been issued?

A8: CCWCo has lost approximately \$1,026,000 since the Decision has been issued.

Q9: What extraordinary expenses have been incurred by CCWCo during this period in support of the Project?

A9: In order to support the Project with the anticipated use of Central Arizona Project ("CAP") water from the Central Arizona Water Conservation District ("CAWCD"), CCWCo has expended approximately \$771,000 since 2005. For a small utility with \$63,000 in annual revenues such a burden is insurmountable.

Q10: How has CCWCo been able to afford to make such payment to CAWCD?

A10: Through annual borrowings from CCWCo's parent companies and equity partner advances. Without these sources of capital it would have been impossible for CCWCo to make such payments.

Q11: Are capital advances available to CCWCo in the future?

A11: It is not likely. The partners related to Brooke, Brooke Resources, LLC and CCWCo are tired of advancing funds for a water source for a Project that Harvard can't even tell us whether or not it's going to be built.

Q12: Has Harvard offered to pay for or reimburse CCWCo for CAP water supply costs related to the Project?

A12: No.

Q13: Are the costs of CAP water charges recoverable from customers?

A13: Under the conditions that exist at CCWCo, no.

Q14: Can the aggregate costs of CAP water charges since 2005 be mitigated in any other way?

A14: Not to any large extent.

III. 2013 Discussions with Harvard

Q15: During the period 2005 through mid-2013 did Harvard ever contact you to discuss the ongoing status of the Project?

A15: Never.

Q16: Did you engage Harvard in discussions for same?

A16: Yes. In April 2013 I arranged a meeting at Harvard's offices in Scottsdale for the purpose of discussing the status of the Project.

Q17: Who did you meet with?

A17: Chris Cacheris ("CC") of Harvard.

Q18: Can you elaborate on the nature of that meeting?

A18: Yes. CC responded to my inquiry about the Project status by telling me of the severe economic conditions that prevailed in the general Phoenix area for the last several years. In some instances these economic circumstances extended to other areas of the United States as well. Sitting comfortably in his conference room and using his laser pointer on a wall map CC discussed some of the various projects that were pending around the metropolitan Phoenix area and discussed the development status of each. CC explained

that Harvard had several development opportunities at the time but was “property rich and cash poor” at the moment – they simple didn’t have the available funds to develop any of the projects under the risk conditions that existed in the market at that time. This discussion ultimately focused on the Project. CC explained that metropolitan growth had not encroached anywhere near the Project area as of yet and he didn’t know that it ever would. I asked CC for his opinion about the disposition of the Project. He replied that it was not likely the Project would ever get developed because it was unviable. He advised that we should cooperate with one another toward the “unwinding” and termination of the Project. I agreed. Further, CC of Harvard offered to pay half the costs related to unwinding and terminating the Project.

Q19: Did CC ever reference needing to discuss this matter further with another Harvard representative?

A19: No. In fact CC was so emphatic with his direction to unwind and terminate the Project that it left no doubt whatsoever, in my mind, that the course of action was clear – unwind and terminate the Project and Harvard would pay half of the costs related thereto.

Q20: Did CC ever mention or reference another partner or owner in the Project?

A20: No.

Q21: Did CC ever mention or reference the Maughan estate of Trustees of the Maughan estate?

A21: Never.

Q22: At that time did you know Harvard had a partner in the Project?

A22: No.

Q23: Do you know when Maughan became an owner partner in the Project?

A23: No. I recall CC explaining that there had been some confusion or missed timing in Harvard taking advantage of various Project options over the years that defaulted to Maughan's ownership in the Project.

Q24: As of today, do you know the partnership/ownership arrangement between Harvard and Maughan on either Phase I or Phase II of the Project?

A24: No.

Q25: What happened next?

A25: On or about May 3, 2013 CC of Harvard called myself and later confirmed in an electronic message ("email") that further consideration by the Project partners resulted in a decision to "hold" all further work related to unwinding or terminating the Project. Harvard explained that a partners meeting would soon be convened to discuss and confirm its previous "unwinding" decision and direction. Because some legal and engineering work had already been started and/or completed² CCWCo replied with astonishment at Harvard's latest instruction. CCWCo advised Harvard that it was proceeding with the work previously directed by Harvard on the basis that "the Project was not viable and that unwinding the Project was the only

² See Exhibit 1, Agreement to Terminate Contractual Relationship

reasonable thing to do”.³ Later on August 6, 2013 CCWCo met with Harvard in their Scottsdale offices at 10:00 a.m. to discuss this matter further. In attendance was myself, CC, and Craig Krumweide (“CK”) of Harvard. Harvard explained that a partners meeting had been recently conducted and that a reverse decision had been made that the Project was now “viable” as determined by its non-controlling partner. CK explained that Harvard’s position had not changed but that their partner had raised objections to Harvard’s directions to unwind the Project. CK indicated that their current position was that they did not want to unwind or terminate the Project. I ask both CC and CK how a project goes from being “not viable” to being “viable” in the short course of four months. They explained that the non-controlling partner disagreed with their unwinding assessment and wanted to proceed with the Project.

Q26: Did you follow-up that discussion with Harvard with additional questions?

A26: Yes. I ask CC and CK collectively several questions, including: Are architects or engineers currently working on Project drawings? They replied “no”; Have Project entitlements all been completed? They replied, “some entitlements are complete”; When will Project grading start? They replied “they didn’t know”; When is the pipeline construction scheduled? They replied, “they didn’t know”; and, “When will CCWCo be selling water? They replied, “they didn’t know”.

Q27: What else did Harvard say about the Project status?

³ See Exhibit 2, Staff Report (revised), page 3, second paragraph, attachment to Staff’s Notice of Filing of Direct Testimony.

A27: Harvard indicated that is still believes the Project is not viable or may not be viable for at least ten years. They also said that no construction schedule had been developed and that there was no plan to develop one. Harvard said they didn't know, if ever, CCWCo would be selling water to the Project?

Q28: Did you ask Harvard any final questions?

A28: Yes. I ask Harvard to explain that since 2005 CCWCo has been carrying, without reimbursement, the costs of CAP water [to support] a Project that was not viable four months ago but is viable now; a Project where no development schedule exists; and, a Project where we cannot ascertain when water would be sold. I ask Harvard, "why would CCWCo or any other business do that?" Harvard replied, "they didn't know any other business that would do that".

Q29: What were your conclusions following the meeting?

A29: I was astounded at how such a supposedly sophisticated international developer could be so badly informed and, seemingly, completely at a loss to explain the future direction of such a Project. Frankly, I regarded Harvard's explanation very warily and with a great deal of doubt. Harvard wanted to know "why we had our backs up?". Incredulously, I replied that we have an asset connected for use to a Project that we have paid nearly \$550,000 since 2005⁴ and we want a return on the ongoing investment or repayment of our expenses since our relationship with Harvard started. I explained, further, that we are concerned because we have a valuable asset for which Harvard is plundering that could be of interest to another party or another project that is now related to a Project that may remain unviable and

⁴ The value of CAP M&I Charges paid at the time of the meeting.

for which no current development schedule information is available or has been developed. Astonished, I reiterated that “and you really want to know why we have our backs up?”

Q30: What happened next?

A30: On July 10, 2013 I received an email from CC in reply to my email of the day previously reiterating Harvard’s position regarding not wanting to terminate the Water Facilities Agreement⁵ (“WFA”) with CCWCo and responding that a capital call had been made to the Project partners to finally pay CCWCo’s outstanding legal and engineering invoices related to the Project. No further reply from me was necessary.

Q31: Until this time had Harvard identified its Project partner/ owner?

A31: No. Not until Harvard and Maughan’s filing for Intervention on December 11, 2013 did CCWCo know the identity of the its Project partner.

Q32: Does CCWCo know anything of the partnership arrangement between Harvard and Maughan on Phases I and II of the Project?

A33: Very little. CCWCo does not know the partnership portions, controlling interests, or other partner/entity members that may be involved.

Q34: When was the Application for Deletion of the CC&N filed?

A34: November 19, 2013.

Q35: Why did CCWCo file its Application to Delete its CC&N?

⁵ See Exhibit 3. The WFA was originally dated March 1, 2005.

A35: CCWCo had no choice. The Project status changed so rapidly between being viable and non-viable that it appeared that Harvard did not know as much about the Project as you would expect some similarly situated person or entity to know. Maughan was a completely unknown commodity and the Projects partners' correspondence and meeting discussions indicated to CCWCo that they believed they had no reason to be responsible for the impact felt by CCWCo nor the disservice done to its customers. CCWCo believes it is not clear whether Harvard ever expects to develop the Project or, alternatively, wants to retain CCWCo's water service commitment for the Project – at CCWCo's expense. CCWCo cannot let that happen.

IV. The “positive impact” Condition of Decision No. 68246

Q36: When was the “positive impact” condition of Decision No. 68246 first effective?

A36: It was effective when the Decision was issued on October 25, 2005.

Q37: What has been the effect or impact of the “positive impact” condition?

A37: The “positive impact” condition has been a disaster. It has practically rendered CCWCo unable to function and the equity partners of CCWCo have been severely impacted. In all fairness to Staff, it was never intended to have such an affect. At the time of the Application for Extension of CC&N it was clearly stated, and supported by Harvard, that construction would commence on the Project by late 2005.⁶ CCWCo and Staff expected the Project to be developed imminently. No party, maybe except Harvard, expected the project to not even have a construction schedule developed nearly ten years later. In effect, the absence of a Project developed by

⁶ See Exhibit 4, page 4, lines 22-24.

Harvard rendered the “positive impact” condition a murderous blow to CCWCo because, despite its good faith efforts to maintain a CAP water supply for the Project, it had no ability to prove a “positive impact” in a rate case due to a Project that didn’t exist.

Q38: Did Harvard favor the “positive impact” condition?

A38: It did. Interestingly enough Harvard did not capitulate its position on the “positive impact” condition until the filing of its Motion to Dismiss on August 10, 2015.⁷

Q39: Why did Harvard inflict unnecessary additional pain, suffering, and financial burden into CCWCO because of its opposition to relinquishment of the “positive impact” condition in the Decision?

A39: That’s a good question without a good answer. I don’t know. Harvard’s effort at opposing relinquishment of the “positive impact” condition did not negatively affect their opposition to the balance of the Application. My experience in dealing with Harvard during the last ten years is that some decisions are made which can’t be explained, or later are unexplained, or later are re-explained. In CCWCo’s view, it doesn’t make any sense for Harvard to oppose relinquishment of the “positive impact” condition of the Decision - except for further business or legal leverage which caused CCWCo significant losses, damages, and financial and operational suffering.

V. The Water Facilities Agreement (“WFA”)

Q40: What is the WFA?

⁷ See Exhibit 5, page 4, lines 13-19.

A40: It's an agreement between a public service corporation and a party seeking utility service. It provides for the responsibilities of each party to provide services and the other to advance funds necessary to pay for the services. In most cases it determines the cost of project improvements.

Q41: What is the date of the WFA?

A41: March 1, 2005. That's more than ten years ago.

Q42: Was wastewater service to be provided to the Project by CCWCo as well?

A42: No. CCWCo only was responsible for providing water service.

Q43: Who was to provide wastewater service?

A43: Supposedly, Harvard was arranging for wastewater service to be brought into the Project. In addition to the other many things that Harvard failed to provide on this Project, I don't know whether or not wastewater services were ever secured.

Q44: How much were the on-site Project improvements expected to cost?

A44: Approximately \$24 million⁸.

Q45: How much were the off-site Project improvements expected to cost?

A45: Nearly \$31 million.⁹

Q46: Can you shed any light on the other administrative, legal, and engineering costs related to the Project?

⁸ See Exhibit 3, section II, paragraph 3.

⁹ *Ibid*

A46: Yes. As provided for in Section II, paragraph 5 of the WFA, Harvard was obligated to reimburse CCWCo for costs incurred on their behalf. Those costs totaled, to date, \$67,782.61 for which Harvard was always obligated to pay.

Q47: Did Harvard finally pay these advanced costs?

A47: Yes. Harvard paid these costs in mid-2013, nearly eight years after they were largely incurred. It is entirely likely that, had the Project actually been developed, additional administrative costs would be owed by Harvard as well.

Q48: Why does Harvard seem to argue that CCWCo cashed their check in payment for these costs only after learning that Harvard wanted to unwind and terminate the Project and, then later, changed its mind to unwind and terminate the contract?

A48: It a red herring that Harvard would like the parties and the ACC to focus on as some sort of wrongdoing by CCWCo. It's an issue of speculation that I am hopeful this Hearing will flush out. Clearly the costs were known, were expected to be paid, and were owed by Harvard. CCWCo didn't accept payment for these reimbursed expenses over and above what they incurred on behalf of Harvard. CCWCo did not mark-up these costs.

Q49: Does the WFA contain a "time is of the essence" provision?

A49: Yes at Section IX, subparagraph 11.

Q50: Who signed the WFA on behalf of Harvard?

A50: Doug Zuber as a Manager of both Harvard 5K, LLC. and Harvard Investments, Inc.

Q51: Is Doug Zuber affiliated with Harvard?

A51: I don't think so. I believe Doug Zuber left Harvard sometime after 2005 under rather dubious circumstances. Harvard would be far more knowledgeable of those circumstances and his whereabouts than I would be.

Q52: Throughout your business arrangements with Harvard during 2004 and 2005 were you primarily connected to Doug Zuber as the appropriate representative of Harvard?

A52: Yes.

Q53: What did Doug Zuber explain to you regarding the development nature of the Project?

A53: Doug Zuber assured me, on numerous occasions, that completion of the WFA, the Applications, membership in the CAGR, and the various other requirements required under the Decision were "imperative" to complete as quickly as possible. Doug Zuber cautioned me on various occasions that CCWCo's delay in the prosecution of any of these requirements would cost Harvard money every day. Doug Zuber was emphatic – the Project had to be built as soon as possible and that CCWCo would be serving new customer's water by not later than early-2007. On one lunch occasion in early 2006 Doug Zuber suggested that Harvard might be interested in purchasing CCWCo if it would permit CCWCo to accelerate its pace of preparation for the Project. As an officer of Harvard who signed the WFA, Doug Zuber left little doubt in CCWCo's mind that the intention of the Project was to be

built immediately and that any significant delays in development would not be tolerated. On another occasion Doug Zuber counseled me that earlier completion of the Decision requirements translated to earlier completion of the "positive impact" condition. I spoke on the telephone and met with Doug Zuber at his Phoenix or Scottsdale offices on many occasions during that period of time.

Q54: Did you and Doug Zuber ever discuss the burdensome cost of annual CAP M&I Charges to CCWCo?

A54: Yes. I made it clear to Doug Zuber that CCWCo was of a size and capability that it could not afford to pay the burdensome costs of the annual CAP M&I Charges indefinitely. Doug Zuber assured me that would not be the case since Harvard expected to develop the Project very quickly.

Q55: Are you aware of any law, regulation, ordinance, or rule that would PREVENT or PROHIBIT Harvard from reimbursing CCWCO for some or all of its CAP M&I Charges related to the Project?

A55: No. None.

VI. ACC Staff Reports

Q56: In the original Staff Report dated June 28, 2005¹⁰ the Executive Summary indicates that the Phase I portion of the Project, also known as Warrick 160, was at that time intended to be a well field for the Project. In the much later issued Staff Report dated October 17, 2014¹¹ the same area is described as "160 acres of land for 78 residential lots". Which is it: a well field or a residential area for 78 lots?

¹⁰ See Exhibit 6, Executive Summary, first paragraph; also see same Exhibit, page 1, third paragraph

¹¹ See Exhibit 7, page 2, top paragraph

A56: I am not sure. The initial purpose of the now-described Warrick 160 Phase 1 area was to be the primary well field for the Project. In the June 28, 2005 Staff Report, Staff determined that the wells in the well field were located in the same aquifer as the existing CCWCo well and should be of the same water quality. Sometime during the last ten years it appears that Harvard has repurposed that area to act as residential lots.

Q57: How long have CCWCo's rates been effective?

A57: CCWCo's rates were last modified in 1988 under ACC Decision No. 55839.¹²

Q58: What is the average monthly cost of water service for a CCWCo water customer?

A58: For the period ending July 2015¹³ the average CCWCo water customer paid \$26.51 for service. That rate has not materially changed for 27 years.

Q59: According to the Staff Report dated June 28, 2005 what is the aggregate cost of the Proposed Plant Facilities improvements for the Project?

A59: Approximately \$55 million.

Q60: How was that sizeable amount going to be financed?

A60: Through advances from the developers and through a Hook-up Fee tariff that would be charged to newly connected meters on to the water system.

Q61: Was CCWCo going to participate in any of the financing related to this Project?

¹² See Exhibit 6, page 1, second paragraph

¹³ See Exhibit 8, CCWCo internal financial statements for the month of July 2015

A61: No, as provided for in the WFA.

Q62: Is the Company and the Project located in an Active Management Area (“AMA”)?

A61: Yes, CCWCo and the Project are located in the Phoenix AMA.

Q62: In Staff Report dated October 17, 2014 is there any reference or mention of the use of the Phase I Warrick 160 portion of the Project as a well field, as it is so referenced in the original Staff Report dated June 28, 2005?

A62: No.

Q63: With regard to the Application what is Staff’s position?

A63: In the October 17, 2015 Staff Report, Staff has recommended denial of CCWCo’s Application as it relates to the deletion of the subject CC&N but has agreed with the Company that elimination, termination, or cancellation of the “positive impact” condition should be accomplished.

Q64: Do you agree with Staff recommendations?

A64: No.

Q65: Why not?

A65: CCWCo certainly agrees with Staff’s conclusion and recommendation as it relates to elimination of the “positive impact” condition. It should be obvious to everyone that CCWCo is barred from seeking modified rates because doing so is connected to a project that has not been developed. But CCWCo adamantly disagrees with Staff that the CC&N should not be deleted.

Q66: What are the criteria that Staff uses to access whether or not an existing CC&N should be deleted?

A66: According to Staff “the issues in a deletion proceeding relate to whether the applicant continues to be fit and proper with the financial, managerial, and technical capabilities to serve the public.”¹⁴ CCWCo has been so severely adversely affected by the “positive impact” condition of the Decision, because Harvard failed to develop the Project, that its financial resources are very limited or non-existent; its managerial capability of operating a company with virtually no financial resources is very low; and, its technical capabilities are very limited because it can no longer afford to invest in time saving processing and procedures that would likely bring cost savings to the Company. In short, the “positive impact” condition of the Decision in addition to Harvard’s failure to develop the Project has CCWCo barely capable of adequately serving its existing 182 customers – but, certainly, not an additional 10,000 new customers, or some portion thereof, as represented by the Project. Harvard and the ACC have gutted CCWCo’s ability to be a fit and proper entity to serve the public represented by the Project.

VII. Standards of a “Fit and Proper” Entity

Q67: Consequently, when is an entity no longer “fit and proper” to serve the public?

A67: My docket and legal research into this matter have yielded the conclusion that the answer to this question is: it depends. The conclusion of “fit and proper” is made based on the circumstances that exist in the proceeding. It is a conclusion that is made on a case-by-case basis. What may be applicable

¹⁴ See Exhibit 7, October 17, 2014 Staff Report, page 4, sixth paragraph

in one case may likely not be applicable in the next case. It depends on the financial resources of the entity and the managerial experience of the company.

Q68: Has the Commission or Staff or any other organization made any assessment, analysis or performed any tests on CCWCo to determine whether or not it is a “fit and proper” entity to serve the public on the Project?

A68: No, and that’s what makes the Staff October 17, 2014 Staff Report unacceptable. They have formed a conclusion as to the ability of CCWCo to serve the public, including the 10,000 new customers represented by the Project, without any analysis or performing any tests upon the capability of CCWCo to be a “fit and proper” entity. Staff has just assumed that CCWCo is a “fit and proper” entity capable of serving Harvard’s prospective 10,000 customers at some future time.

Q69: Has there been any regulatory proceeding or any docket opened in the matter of investigating whether or not CCWCo is a “fit and proper” entity?

A69: No. That’s what is uniquely unfair about this matter. Staff has concluded, without performing any analysis that CCWCo is a “fit and proper” entity without any investigation.

Q70: What does “fit and proper” mean as it relates to the Application?

A70: The term “fit and proper” is used extensively through legislative, legal, and regulatory manuals, documents, and proceedings to generally suggest that an entity has the integrity and resources necessary to properly serve the public.

In Docket No. 2015A-EMS-0190-DHS an administrative hearing was convened to determine whether or not Maricopa Ambulance, Inc. was a “fit and proper” entity to serve the public with emergency services. At page 2, section B, therein, the Notice of Hearing states that Arizona Revised Statutes (“ARS”) § 36-2233(B)(3) is the requisite statute to determine whether or not the applicant is a “fit and proper” entity. The Notice goes on to say that “Fit and Proper” means that the Director determines that the Applicant has the expertise, integrity, fiscal competence and resources to provide the proposed ambulatory service in the proposed area.”^{15, 16} Thereafter, ARS § 36-2233 (B)(3) indicates that an entity must be “fit and proper” in order to qualify for a certificate to offer emergency ambulatory services in a particular service area.¹⁷ Further, in the Commission’s own documents it references the requirement of an entity being “fit and proper”. In the Commission’s Application for Certificate and Necessity for Competitive Retail Electric Services it states that “One of the criteria used to determine if an entity is “fit and proper” is that the utility’s current and projected financial health must be sound.”¹⁸

Q71: Prior to its conclusion in Staff Report dated October 17, 2014 has the Commission made any effort to show whether CCWCo is a “fit and proper” entity in terms of providing public services to the Project service area?

¹⁵ See Exhibit 8, page 2, lines 13-15.

¹⁶ See State of Arizona Emergency Medical Services and Trauma System, Certificates for Ambulatory Service, page 2 of 4: “Fit and proper means that the Director determines that an applicant for a certificate of necessity or a [an existing] certificate holder has the expertise, integrity, fiscal competence and resources to provide ambulatory service in the service area.”

¹⁷ See ARS 36-2233(B)(3)

¹⁸ See ACC “Certificate of Convenience and Necessity for Competitive Retail Electric Services, page 2, last paragraph.

A71: No.

Q72: In your opinion, should such a showing be made before a conclusion can be reached in this Application?

A72: CCWCo believes the Application for Deletion should be approved. However, in the alternative no conclusion should be reached by Staff that results in a Recommended Opinion and Order ("ROO") to the Commission whereby denial of CCWCo's Application is decided without some fair showing of the "fit and proper" capability of CCWCo to service the Project public.

Q73: In your opinion, is CCWCo "fit and proper" to serve the existing 182 customers represented by CCWCo's current water system?

A73: Yes.

Q73a: In your opinion, is CCWCo "fit and proper" to serve the prospective 10,000 customers represented by Harvard's Project?

A73a: No. The difference between serving 182 customers and an additional 10,000 customers is significant and requires a completely different kind of organization, staff, operational capabilities, and financial resources that CCWCo does not have, in large part, because of the erosion of its financial capabilities due to the "positive impact" condition of the Decision and Harvard's failure to build the Project when they said they would. CCWCo is confident it can serve well and accommodate its existing customers. It does not have the same confidence of the prospective Project customers.

Q74: What are the capabilities of CCWCo in order to meet the test of being "fit and proper"?

A74: On the attached internally generated financial statements dated July 31, 2015¹⁹ it becomes evident from the balance sheet and income statement of the Company that it is not in a position to continue to provide financing for a Project that may never get built.

Q75: Can you describe or summarize the referenced financial statements of CCWCo?

A75: Yes. It can be seen from the Balance Sheet that CCWCo has significantly negative equity, substantial liabilities, and small rate base of operating utility assets. In July 2015 CCWCo had revenues of \$5,144; expenses that exceed \$10,000; and a loss of \$6,712. This month is a fairly typical month for the Company. 2015 year-to-date losses exceed \$54,700 and the losses at the end of December 2014 exceed \$78,000. The Company's current ratio is .0154 to 1 - far less than the industry standard required to define a financially healthy company. The Company's net worth is less than negative \$867,000. Clearly, CCWCo is not in a financially strong position that meets any of the criteria expressed above as being a "fit and proper" entity.

Q76: Why do you think Staff did no analysis of the "fit and proper" condition of CCWCo before it reached its conclusion in the Staff Report dated October 17, 2014?

A76: I don't know. I'd like to know the answer to that question as well.

Q77: In conclusion, can you summarize CCWCo's position as it relates to being a "fit and proper" entity capable of serving the Project?

¹⁹

See Exhibit 9

A77: Sure. Simply, it isn't. If the Project had been developed timely, as all parties expected, the erosion of financial resources at CCWCo would have been serious but modest – likely despite the inclusion of the “positive impact” condition in the Decision. CCWCo probably could have deferred enough expenses and investment to cooperate in the development of the water system interconnection that would have sufficiently demonstrated the “positive impact” of the Decision. At some point the interconnection of additional water supplies and water storage resulting from the Project would have been sufficient to make Staff comfortable that a “positive impact” could be shown. CCWCo could have thereafter prosecuted a rate proceeding that would have modified the existing rates. In fact, such a rate proceeding likely could have been completed two or three times in the intervening years. In addition to the Hook-Up tariff that was related to the Decision, CCWCo would have been in a far different condition to operate and manage the Project than it is now. At the current time, something has to drastically change in order for CCWCo to move forward. CCWCo believes the absence of the planned Project, which would have been its lifeline to future financial prosperity, was irresponsibly trashed because Harvard may have wanted to preserve the value in the Project so that it could be re-sold to another owner at a future date. That value couldn't be preserved without a commitment for water service and, in this case, the water service requirements of the AMA could not have been met without membership in the CAGRD. That required CCWCo's CAP water allocation to which no equivalent alternative was available. Harvard and its ownership partners have caused CCWCo enormous financial damages, eroded partnership financial position, and rendered it barely capable of being able to responsibly serve its existing 182 customers. CCWCo is on life support because of Harvard and the “positive

impact” condition of the Decision. The ONLY responsible alternative to CCWCo’s dilemma is to approve its Application including the elimination of the “positive impact” condition and allow it to seek modified customer rates that slowly regain its financial independence. It is hard to understand how any unbiased, objective party could view this situation differently. The Commission and Staff should realize that even the best intentioned decision conditions can have consequences – severely penalizing consequences – if all parties to a decision do not keep their end of the bargain. I am clearly reminded of CK’s comment as to why CCWCo “has their backs up”. I remain mystified.

Q78: Does this conclude your testimony?

A78: Yes it does.

END

EXHIBIT 1

Agreement to Terminate Contractual Relationship

This Agreement is made on ____ day of ____, 2013, by and between Circle City Water Company, LLC ("Circle City"), an Arizona limited liability public service corporation, and Harvard Investments, Inc. ("Harvard"), a Nevada corporation on behalf of Lake Pleasant 5000, LLC and Harvard 5k, LLC.

RECITALS

WHEREAS, on ____, 2005, Circle City and Harvard entered in a Water Facilities Agreement ("Facilities Agreement") for the construction of on-site and off-site water utility plant necessary to provide domestic water service to the Lake Pleasant 5000 project ("Project") located in Maricopa County, Arizona; and

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WHEREAS, the Facilities Agreement required Circle City to file an application for an extension of its Certificate of Convenience of Necessity ("CC&N") to include the Project within its water utility service area; and

WHEREAS, after such application was duly filed, the Arizona Corporation Commission ("ACC") issued Decision No. 68246 on October 25, 2005, granting Circle City's application; and

WHEREAS, on November 30, 2007, Circle City entered into an Agreement and Notice of Municipal Provider Reporting Requirements with the Central Arizona Groundwater Replenishment District ("CAGRD Reporting Agreement") and several developer entities, including Harvard; and

WHEREAS, Circle City and Harvard desire to terminate their contractual relationships established in the Facilities Agreement and CAGRD Reporting Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. Termination of Facilities Agreement.

Circle City and Harvard mutually understand and agree that the Facilities Agreement dated ____, 2005, shall be terminated upon execution of this Agreement.

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2. Deletion of CC&N.

After execution of this Agreement, Circle City shall file with the ACC an application to delete the CC&N extension granted in Decision No. 68246. Harvard shall

provide support to Circle City as necessary in furtherance of Circle City's application request.

3. Revocation of CAGRD Reporting Agreement

Circle City and Harvard mutually understand and agree that the CAGRD Reporting Agreement will no longer apply after the termination of the Facilities Agreement and subsequent deletion of the CC&N extended in Decision No. 68246. As a result, the Parties agree to use best efforts to revoke the CAGRD Reporting Agreement pursuant to Section 4.3 thereof, and to secure the CAGRD's express written agreement (as required) for revocation of same.

4. Costs

In consideration for the termination of the Facilities Agreement, and in full settlement of any other claims that Circle City may have now existing or which may accrue in the future, Harvard agrees to pay Circle City for any and all administrative and legal costs associated with terminating the Facilities Agreement, deleting the CC&N extension granted in Decision No. 68246 and revoking the CAGRD Reporting Agreement, up to a maximum of \$ \$15,000 dollars.

Further, in consideration of previously incurred expenses, Harvard agrees to pay Circle City \$20,411.50 for engineering expenses and \$47,371.11 for legal expenses. These expenses are payable to Circle City at the time of execution of this Agreement.

5. Miscellaneous Provisions.

A. *Entire Agreement.* This Agreement shall constitute the entire termination agreement between the parties on the issues set forth herein and shall supersede any and all agreements between the parties regarding the issues prior to the date hereof. This Agreement may be modified or amended only by a writing signed by both parties.

B. *Headings.* The article headings of this Agreement are for reference and convenience only and shall not modify or amend this Agreement.

C. *Counterparts.* This Agreement may be executed in multiple counterparts. A facsimile of an executed original document shall have the same legal force and effect as an original document and shall be admissible as an original document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Circle City Water Company, LLC

Harvard Investments, Inc.

By: _____
Position: _____

By: _____
Position: _____

Lake Pleasant 5000, LLC

Harvard 5k, LLC.

By: _____
Position: _____

By: _____
Position: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2013 by _____ of Circle City Water Company, LLC, on behalf of the Limited Liability Company.

Notary Public

My Commission expires:

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2013 by _____.

_____ of Harvard Investments, Inc. an Arizona corporation,
on behalf of the corporation.

Notary Public

My Commission expires:

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of
_____, 2013 by _____,
_____ of Lake Pleasant 5000, LLC, an Arizona limited
liability company, on behalf of the limited liability company.

Notary Public

My Commission expires:

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of
_____, 2013 by _____,
_____ of Harvard 5K, LLC, an Arizona limited liability
company, on behalf of the limited liability company.

Notary Public

My Commission expires:

EXHIBIT 2



0000159200

BEFORE THE ARIZONA CORPORATION COMMISSION
RECEIVED

COMMISSIONERS

SUSAN BITTER SMITH - Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

2015 JAN -6 P 2:10

ORIGINAL

AZ CORP COMMISSION
DOCKET CONTROL

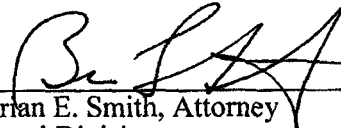
IN THE MATTER OF THE APPLICATION OF
CIRCLE CITY WATER COMPANY, LLC FOR
AN EXTENSION OF ITS EXISTING
CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR WATER SERVICE.

DOCKET NO. W-03510A-13-0397

STAFF'S NOTICE OF FILING DIRECT
TESTIMONY

Staff of the Arizona Corporation Commission ("Staff") hereby files the Direct Testimony of
Blessing Chukwu in the above matter.

RESPECTFULLY SUBMITTED this 6th day of January 2015.



Brian E. Smith, Attorney
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

Original and thirteen (13) copies
of the foregoing filed this
6th day of January 2015 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Arizona Corporation Commission
DOCKETED

JAN 06 2015

DOCKETED BY 

1 Copy of the foregoing mailed
this 6th day of January 2015 to:

2 Robert T. Hardcastle
3 Circle City Water Company, LLC
Post Office Box 82218
4 Bakersfield, California 93380-2218

5 Garry Hays
Law Offices of Garry D. Hays, PC
6 1702 East Highland Avenue, Suite 204
Phoenix, Arizona 85016
7 Attorney for Lake Pleasant 5000, LLC

8 Darin P. Reber
7501 East McCormick Parkway
9 Scottsdale, Arizona 85258
Counsel for Maughan Revocable Trust of 2007
10 and Rex G. Maughan and Ruth G. Maughan

11 
12 _____

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BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP

Chairman

GARY PIERCE

Commissioner

BRENDA BURNS

Commissioner

BOB BURNS

Commissioner

SUSAN BITTER SMITH

Commissioner

IN THE MATTER OF THE APPLICATION OF)
CIRCLE CITY WATER COMPANY, L.L.C. FOR)
APPROVAL TO DELETE PORTIONS OF ITS)
CERTIFICATE OF CONVENIENCE AND)
NECESSITY AND TO DELETE A)
REQUIREMENT SET FORTH IN DECISION)
NO. 68246)

DOCKET NO. W-03510A-13-0397

DIRECT

TESTIMONY

OF

BLESSING NKIRUKA CHUKWU

EXECUTIVE CONSULTANT III

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

JANUARY 6, 2015

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E. MAUGHAN REVOCABLE TRUST ("MRT"), LAKE PLEasant 5000, L.L.C. ("LP5K") POSITION	3
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H. ENGINEERING MAP	B
I. REQUEST FOR SERVICE LETTER	C

EXECUTIVE SUMMARY
CIRCLE CITY WATER COMPANY, L.L.C.
DOCKET NO. W-03510A-13-0397

On November 19, 2013, Circle City Water Company L.L.C. ("Circle City" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval to delete approximately 5,042 acres of its Certificate of Convenience and Necessity ("CC&N") as extended by Decision No. 68246 and to delete the Decision's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

The purpose hereof is to adopt the Utility Division's ("Staff") Staff Report filed on October 21, 2014, as Staff's direct testimony in this docket.

Circle City is an Arizona Corporation in good standing with the Commission's Corporation Division. The Company's water system has adequate production and storage capacities to serve the present customer base and reasonable growth in the Company's certificated area. However, the Company's water system is not in compliance with Arizona Department of Water Resources ("ADWR") requirements as the Company failed to file a System Water Plan.

Staff recommends the Commission deny Circle City's application for deletion of a portion of its CC&N within Maricopa County, Arizona, to provide water service. Staff also recommends that the Commission eliminate the requirement set forth in Decision No. 68246 that the Company demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Staff further recommends that the Company file with Docket Control, as a compliance item in this Docket by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/or community water systems.

I. INTRODUCTION

Q. Please state your name, business address, by whom and where you are employed and in what capacity.

A. My name is Blessing Nkiruka Chukwu. My business address is 1200 West Washington Street, Phoenix, Arizona 85007. I am employed by the Utilities Division ("Staff") of the Arizona Corporation Commission ("ACC" or "Commission") as an Executive Consultant III.

Q. Please describe your educational and professional background.

A. I received a B.S. in Accounting and a M.B.A. in Finance from the University of Central Oklahoma. I was employed for over eight years by The City of Oklahoma City ("City") in various capacities. For approximately eight years of my employment with the City, I was an Administrative Aide with the responsibility of overseeing the various Environmental Protection Agency's mandates on Stormwater Quality within the Corporate City limits. Prior to being an Administrative Aide, I was a Budget Technician where I was responsible for reviewing, analyzing, and recommending budget requests and/or proposed budget, fund transfers, appropriations and/or any other budget related issues proposed by assigned departments. Prior to joining the Commission, I was employed by the Oklahoma Corporation Commission ("OCC") for five years in the Public Utility Division where I held various Public Utility Regulatory Analyst positions of increasing responsibilities. My responsibilities at the OCC included processing applications consisting of rates and charges, streamline tariff revisions and requests for Certificates of Convenience and Necessity ("CC&N") filed by local exchange telecommunications companies, payphone providers, resellers, and operator service providers. I also reviewed mergers and acquisitions, Interconnection Agreements (including Arbitrations), and performed special projects as requested by the Director of Public Utility Division and/or the Commissioners.

1 Q. How long have you been employed with the ACC?

2 A. I have been employed with the ACC since May 27, 2003.

3
4 Q. What are your responsibilities as an Executive Consultant III?

5 A. I perform special projects for the Director's Office which include, but are not limited to,
6 serving on the case teams; development of policies and procedures for appropriate regulatory
7 oversight of public utilities; review applications for CC&N, and writing Staff Reports and
8 Testimony.

9
10 Q. Have you testified previously before this Commission?

11 A. Yes, I have testified before this Commission.

12
13 **II. PURPOSE OF TESTIMONY**

14 Q. What is the purpose of your testimony?

15 A. The purpose of my testimony is to adopt the Staff Report filed on October 21, 2014, as
16 Staff's direct testimony in this docket.

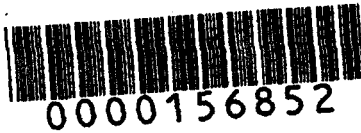
17
18 **III. STAFF REPORT**

19 Q. Please describe the attached Staff Report, Exhibit BNC-1.

20 A. Exhibit BNC-1 presents the details of Staff's analysis and findings and is attached to this
21 direct testimony. Exhibit BNC-1 contains the following major topics: (1) Introduction, (2)
22 Background, (3) The Requested CC&N Deletion Area, (4) Circle City Position, (5) Maughan
23 Revocable Trust ("MRT"), Lake Pleasant 5000, L.L.C. ("LP5K") Position, (6) The Water
24 System, (7) Special Service Tariffs, and (8) Staff Analysis of the CC&N Deletion Application.

25
26 Q. Does this conclude your direct testimony?

27 A. Yes, it does.

**MEMORANDUM**

RECEIVED

2014 OCT 21 P 3:39

TO: Docket Control

FROM: Steve M. Olea
Director
Utilities Division

AZ CORP COMMISSION
DOCKET CONTROL**ORIGINAL**

Date: October 21, 2014

RE: **CORRECTED STAFF REPORT FOR CIRCLE CITY WATER COMPANY L.L.C. – APPLICATION FOR DELETION OF PORTIONS OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY AND THE REQUIREMENT TO FILE A RATE APPLICATION PURSUANT TO DECISION NO. 68246 (DOCKET NO. W-03510A-13-0397)**

Attached is the corrected Staff Report for Circle City Water Company L.L.C.'s application for deletion of portions of its existing Certificate of Convenience and Necessity and the requirement to file a rate application pursuant to Decision No. 68246. Staff is recommending denial.

The original Staff Report docketed on October 17, 2014, inadvertently contained two page 4s. On page 5, a typographical error was also corrected.

SMO:BNC:tdp\MS

Originator: Blessing Chukwu

Arizona Corporation Commission
DOCKETED

OCT 21 2014

DOCKETED BY	
-------------	--

Service List for: Circle city Water Company L.L.C.
Docket No. W-03510A-13-0397

Mr. Robert Hardcastle
P.O. Box 82218
Bakersfield, CA 93380-2218

Mr. Gary Hays
1702 E. Highland Ave., Suite 204
Phoenix, Arizona 85016

Mr. Darin P. Reber
7501 E. McCormick Parkway
Scottsdale, Arizona 85258

Ms. Janice Alward
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Steve M. Olca
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

CIRCLE CITY WATER COMPANY L.L.C.

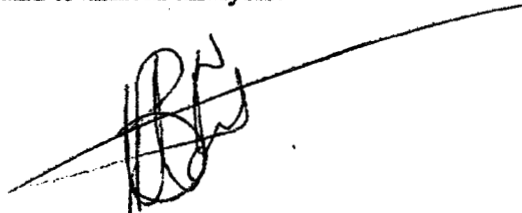
DOCKET NO. W-03510A-13-0397

APPLICATION FOR DELETION OF PORTIONS OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY AND THE REQUIREMENT TO FILE A RATE
APPLICATION PURSUANT TO DECISION NO. 68246

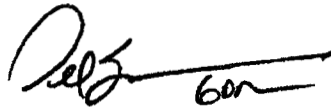
OCTOBER 21, 2014

STAFF ACKNOWLEDGMENT

The Staff Report for Circle city Water Company L.L.C. (Docket No. W-03510A-13-0397) was the responsibility of the Staff members signed below. Blessing Chukwu was responsible for the review and analysis of the Company's application. Katrin Stukov was responsible for the engineering and technical analysis.

A handwritten signature in dark ink, appearing to be 'Blessing Chukwu', with a long horizontal line extending to the right.

Blessing Chukwu
Executive Consultant

A handwritten signature in dark ink, appearing to be 'Katrin Stukov', with a long horizontal line extending to the right.

Katrin Stukov
Utilities Engineer

EXECUTIVE SUMMARY
CIRCLE CITY WATER COMPANY L.L.C.
DOCKET NO. W-03510A-13-0397

On November 19, 2013, Circle City Water Company L.L.C. ("Circle City" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval to delete approximately 5,042 acres of its Certificate of Convenience and Necessity ("CC&N") as extended by Decision No. 68246 and to delete the Decision's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

Circle City is an Arizona Corporation, in good standing with the Commission's Corporation Division, and engaged in providing water service to approximately 179 customers in portions of Maricopa County, Arizona.

Staff recommends the Commission deny Circle City's application for deletion of a portion of its CC&N within portions of Maricopa County, Arizona, to provide water service. Staff also recommends that the Commission eliminate the requirement that Circle City comply with Decision No. 68246's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Staff further recommends that the Company file with Docket Control, as a compliance item in this Docket by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/or community water systems.

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RECOMMENDATIONS	6

ATTACHMENT(S)

ENGINEERING REPORT	A
ENGINEERING MAP	B
REQUEST FOR SERVICE LETTER.....	C

INTRODUCTION

On November 19, 2013, Circle City Water Company L.L.C. ("Circle City" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval to delete portions of its Certificate of Convenience and Necessity ("CC&N") as extended by Decision No. 68246 and to delete the Decision's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

On December 11, 2013, and January 9, 2014, Lake Pleasant 5000, L.L.C. ("LP5K") and Rex G. Maughan and Ruth G. Maughan, Trustees of the Maughan Revocable Trust of 2007 ("MRT"), respectively, filed an Application to intervene.

On December 13, 2013, and March 12, 2014, by Procedural Order, LP5K and MRT were granted intervention, respectively.

In April 2014, the Company provided additional documentation to support its relief requested, pursuant to data request issued by Commission Division Staff ("Staff"). Likewise, LP5K also provided additional information.

BACKGROUND

Circle City is an Arizona Corporation, in good standing with the Commission's Corporation Division, and engaged in providing water service to approximately 179 customers in portions of Maricopa County, Arizona. According to Commission records, the Commission approved the original CC&N for Circle City in Decision No. 31121 (August 15, 1958) as Circle City Development Company. Since then, the assets and CC&N have been transferred a few times. Circle City is now owned by Brooke Resources L.L.C.

Circle City provides water services to both residential and commercial customers. The Company's CC&N covers approximately 8,300 acres (approximately 13 square miles) and is located in the western portion of the Phoenix Metropolitan Area, in Maricopa County.

By this application, Circle City is seeking Commission authority to delete approximately 5,042 acres of its CC&N, as extended by Decision No. 68246 and to delete the Decision's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

THE REQUESTED CC&N DELETION AREA

The Company's CC&N is approximately 13.2 square miles in size and is located in the western portion of Phoenix Metropolitan Area, in Maricopa County. Precisely, in Section 33 in Township 06 North, Range 03 West (referred to herein as the "Circle City's initial CC&N"), Section 28 in Township 06 North, Range 03 West (referred to herein as the "Warrick 160") and Sections 5,

6, 7, 8, 9, 17 and 18 as well as a majority portion of Section 4¹ in Township 07 North, Range 02 West (referred to herein as the "Lake Pleasant 5000"). Lake Pleasant 5000 CC&N area consists of approximately 4,882 acre planned development with approximately 10,000 residential units and 300 acres of commercial development and is located approximately five miles northeast of Circle City's initial CC&N area. Warrick 160 CC&N area consists of approximately 160 acres of land for 78 residential lots. Warrick 160 is located northeast of Circle City's initial CC&N and is adjacent to it at one point. Decision No. 68246, issued on October 25, 2005, granted Circle City's request to extend its CC&N to include Warrick 160 and Lake Pleasant 5000 areas ("the Project"). The subject CC&N deletion application would remove from Circle City's CC&N all of the Warrick 160 and the Lake Pleasant 5000 areas. The proposed deletion areas include approximately 5,000 acres. According to Circle City, the Company is not serving any customers in the Warrick 160 and the Lake Pleasant 5000 areas and none of the intended water system's plant necessary to serve the proposed deletion areas has been constructed.¹

CIRCLE CITY POSITION

Decision No. 68246 granted Circle City's request to extend its CC&N to serve the Project.

In its Application to delete CC&N as extended in Decision No. 68246 and its Motion to delete the requirement in Decision No. 68246 related to a future rate application, Circle City states that it first received an expression of interest to develop the Project known as the Lake Pleasant 5000 Project from Harvard Investments, Inc. ("Harvard" or the "Developer") in 2004.

In 2005, Circle City and Harvard executed the Water Facilities Agreement ("WFA") which provided water service to Warrick 160 and Lake Pleasant 5000. Subsequently, according to Circle City, in November 2007, Circle City and the other ownership partners of Phase I including the Developer, known as Warrick 160 LLC for the purposes of this portion of the Project, and the Central Arizona Groundwater Replenishment District ("CAGRDR") executed the Agreement and Notice of Municipal Provider Reporting Requirements for Warrick Property Regarding Membership in the Central Arizona Groundwater Replenishment District (the "CAGRDR Agreement"). Circle City states that as a result of the Agreement, the Developer became a Member Lands in the CAGRDR and met the requirements for an assured water supply for Phase I of the Project in the Active Management Area ("AMA") of the Arizona Department of Water Resources ("ADWR"). In addition, Circle City received an approval to construct ("ATC") Phase I of the Project in June, 2008.

On March 2, 2005, Circle City filed an application for an extension of its CC&N with the Commission to provide public water service to the Project, which was granted in Decision No. 68246. The Project was to consist of two sections called Phase I and Phase II. Phase I related to 160 acres of land for 78 residential lots located northeast and contiguous to Circle City's existing CC&N also known as the Warrick 160 portion. Phase II related to 4,882 acres located approximately five miles north of Circle City's existing CC&N that would be connected by a series of newly developed main extensions, 7.6 million gallons of water storage, Central Arizona Project ("CAP") treatment plant and related appurtenances. Circle City states that the Project was planned

¹ See Company's responses to Staff's First Data Requests.

for 1000 dwelling units having peak day demand of more than 5,255 gallons per minute. The engineers cost estimate for the combined cost of water infrastructure and onsite distribution for the Project exceeded \$55,000,000.

Circle City states that it now desires to delete the area from its CC&N because "the Project never got developed beyond the initial entitlements phase more than 8 years later, there is no plan to develop or construct the Project." Circle City alleges that in prior interaction it had with the Developer in an April 12, 2013 phone call, the Developer described the Project as "not viable" and that the Developer had "indicated that it could be as long as 10 more years before the area around the Project might develop." Circle City further alleged that the Developer agreed with the Company to unwind all regulatory and contractual arrangements with Circle City related to the Project including the deletion of the extended CC&N; termination of the Water Facilities Agreement; cancellation as a Member Lands with CAGR for Warrick 160, and cancellation of the Maricopa County Franchise Agreement.

The Company contends that several weeks after significant "unwinding" work had been completed (although it never identified what this significant unwinding work consisted of), the Developer apparently recognized that "unwinding" the Project arrangements should include the approval of the other Project partners as well. As a result, the Developer requested on May 3, 2013 Circle City to "hold" on the "extinguishing/termination" of the unwinding arrangements until a Partners' "meeting was convened that confirmed and approved the Developer's previous "unwinding" decision." According to Circle City, in response to the Developer's request, it expressed astonishment at the Developer's "hold" instruction and advised the Developer that it was "directing its counsel to proceed" based on their prior discussions that "the Project was not viable and that unwinding the Project was the only reasonable thing to do."

On July 18, 2013, LP5K paid Circle City \$67,782.61 for legal and engineering expenses incurred for the extension area, in accordance with the WFA. Circle City does not deny that it cashed this check. According to Circle City's response to Staff's Second Set of Data Requests, the check was for "expenses related to development of the project." On August 7, 2013, at the suggestion of Circle City, a meeting was arranged with the Developer to discuss the most current status of the Project. According to Circle City the Developer stated that is partners did not want to delete the CC&N approved in Decision No. 68246 or terminate their membership with CAGR.

Nonetheless, Circle City proceeded to file the instant CC&N deletion application. Attachment B contains a map which shows the portion of Maricopa County at issue.

**MAUGHAN REVOCABLE TRUST ("MRT"), LAKE PLEASANT 5000, L.L.C. ("LP5K")
POSITION**

The areas Circle City proposes to delete (Warrick 160 and the Lake Pleasant 5000) are owned by MRT, LP5K, and their development partners. MRT and LP5K were granted intervention in this matter. The owners entered into a WFA with Circle City. In July of 2013, as stated above, the owners paid \$67,782.61 to Circle City in accordance with the WFA. The owners do not want

their properties deleted and have advised Circle City a need for service exists. The owners reiterated the request for service in a letter dated December 11, 2013.

THE WATER SYSTEM

The new water system needed to serve the proposed CC&N deletion area was contemplated to be constructed in two phases² and financed pursuant to the WFA between Circle City and the developer. According to the Company's responses to Staff's First Data Requests, Circle City does not serve any customers in the CC&N extension granted in Decision No.68246 and none of the intended water system's plant necessary to serve the Warrick 160 and the Lake Pleasant 5000 areas has been constructed.

Attachment A is Staff's Engineering Report which describes the current water system. The report includes the findings that Circle City is in compliance with Maricopa County Environmental Services Department ("MCESD") and with the Commission decisions. The Company's water system is not in compliance with Arizona Department of Water Resources ("ADWR") requirements as the Company failed to file a System Water Plan.

The report indicates that Circle City's water system has adequate production and storage capacities to serve the present customer base and reasonable growth in the Company's original certificated area.

Staff recommends that the Company file with Docket Control, as a compliance item in this docket, by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/or community water systems.

SPECIAL SERVICE TARIFFS

Circle City has approved Curtailment Tariff, Backflow Prevention Tariff, and Offsite Hookup Fee Tariff for water on file.

STAFF ANALYSIS OF THE CC&N DELETION APPLICATION

In any CC&N deletion proceeding, Staff is charged with reviewing the evidence submitted by an applicant to make a recommendation to the Commission based upon the facts contained in the application and any responses to the application by interested and/or affected parties. The issues in a deletion proceeding relate to whether the applicant continues to be fit and proper with the financial, managerial and technical capabilities to serve the public. In this case, additional circumstances are presented related to the Project's viability and Circle City's continued responsibility to serve the area as the CC&N holder.

During its review, Staff met with Circle City and with the owners of Warrick 160 and the Lake Pleasant 5000 and also issued data requests to both parties.

² Phase I of the Project intended to be in the Warrick 160 area

Staff's review of the information received indicates that the owners and/or developers of the proposed deletion area want Circle City to provide water service to their development.³ The statements made regarding unwinding the Project were apparently not based upon input by all of the partners to the Project. Once all of the Partners were consulted, it became clear that they wanted to proceed with the Project in the extension area. While no timeframe has been presented, steps have been taken by the Developers to begin the Project. On July 18, 2013, LP5K paid Circle City \$67,782.61 for legal and engineering expenses incurred for the extension area, in accordance with the WFA. Circle City received and cashed Check No. 786, approximately four (4) months before filing the instant application. In addition, the check was received and cashed on August 1, 2013, during the time that the Developers and Circle City were engaged in discussions regarding the Project. Significantly, after receiving and cashing the check, Circle City arranged a meeting with the Developers to discuss the current status of the Project. The fact that Circle City cashed the Developer's check is an indication that it intended to proceed with the Project. In response to Staff's Second Set of Data Requests⁴, Circle City itself acknowledged that the check for \$67,782.61 was for "payment of contractual legal and engineering expenses related to development of the project in accordance with the WFA." After cashing the check, it called a status meeting in August, 2013, during which it was once again informed that the Developer's partners wanted to proceed with the project.

Circle City also apparently relies upon language in Decision No. 68246 which provided that if Circle City failed to meet certain conditions in the Order which involved filing certain documentation within 24 months of the Order, the decision would be deemed null and void without further Order of the Commission. Two of the documents it was to file were (1) a copy of the Certificate of Approval to Construct for Phase I, and (2) a copy of the Developer's Assured Water Supply for Phase I of the Project.⁵ While these documents were not filed, Circle City acknowledges in its filing, that it had obtained both documents. Given this, the Company should not be allowed to benefit at the expense of the Developers from its own failure to file the documents with Docket Control as required by Decision No. 68246.

There is also the issue of Decision No. 68246 requirement for the Company to demonstrate in its next rate case filing (scheduled for 2014) that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Neither Phase I nor II of the Project has been built. Staff agrees with Circle City that this requirement is no longer necessary and should be deleted.

LP5K and its development partners need water service, as evidenced by Attachment C. Circle City in cashing the Developer's check took action inconsistent with its current application to delete the Project service area from its CC&N. It noted in response to Staff's Second Set of Data Requests, that the check was for expenses related to development of the Project. Then, at the

³ See Attachment C, Letter from LP5K to Mr. Robert Hardcastle of Circle City.

⁴ April 18, 2014 response by Robert T. Hardcastle to Staff Second Set of Data Requests.

⁵ It should be pointed out that the ATC for Phase I has since expired. However, the Company can resubmit the ATC application at any time.

August 2013 meeting Circle City called, Circle City again was told by the Developer that its partners desired to proceed with the Project.

Further, there are no other water providers serving areas contiguous to or in close proximity to the proposed deletion area. Staff believes that in general it is more economical for an area to be served by one water provider than several contiguous, small water providers. Staff has no reason to believe that the situation in this case is any different in that the deletion proposed by Circle City could result in the creation of at least one other small, possibly non-financially viable, water company. Such a result is not consistent with the public interest.


Staff recommends denial of Circle City's request to delete the portions of its CC&N extended by Decision No. 68246. Staff also recommends that the Commission eliminate the requirement that Circle City comply with Decision No. 68246's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

RECOMMENDATIONS

Staff recommends the Commission deny Circle City's application for deletion of a portion of its CC&N within portions of Maricopa County, Arizona, to provide water service. Staff also recommends that the Commission eliminate the requirement that Circle City comply with Decision No. 68246's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Staff further recommends that the Company file with Docket Control, as a compliance item in this Docket by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/or community water systems.

MEMORANDUM

TO: Blessing Chukwu
Executive Consultant III

FROM: Katrin Stukov 
Utilities Engineer

DATE: September 5, 2014

RE: Application of Circle City Water Company L.L.C. for approval to delete portions of its Certificate of Convenience and Necessity and the requirement to file a rate application pursuant to Decision No. 68246 (Docket No.W-03510A-13-0397).

Introduction

On November 19, 2013, Circle City Water Company L.L.C. ("Circle City" or "Company") filed with the Arizona Corporation Commission ("ACC" or "Commission") an application requesting approval to delete portions of its Certificate of Convenience and Necessity ("CC&N") as extended by Decision No. 68246 and to delete the requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

Circle City's service area is located in the western portion of the Phoenix metropolitan area in Maricopa County. The Company's CC&N area covers approximately 8,300 acres (roughly 13 square miles).

The Company's CC&N extension granted in Decision No.68246 includes two separate areas intended for a project known as Lake Pleasant 5000 ("Project"). The first area covers 4,882 acres and is five miles northeast of Circle City's original certificated area¹. The second area, known as the Warrick 160, covers 160 acres and is adjacent at one point to Circle City's original certificated area.

The new water system needed to serve the Project was contemplated to be constructed in two phases² and financed pursuant to a Water Facility Agreement between Circle City and the developer of the Project. According to the Company's responses to Staff's First Data Requests, Circle City does not serve any customers in the CC&N extension granted in Decision No.68246 and none of the intended water system's plant necessary to serve the Project has been constructed.

¹ Circle City's certificated area prior to the CC&N extension granted in Decision No.68246.

² Phase I of the Project intended to be in the Warrick 160 area

Circle City Water System

Operation

According to the Company's 2012 Annual Report, the Circle City water system consists of one well, producing 75 gallons per minute ("GPM"), one 50,000 gallon storage tanks, three 25,000 gallon storage tanks, a booster system and a distribution system serving 179 customers in the Company's original certificated area.

Capacity

Based on the water use data obtained from the Company's 2012 Annual Report, Staff concludes that the Company's well production capacity of 75 GPM and storage capacity of 125,000 gallons are adequate to serve the present customer base and reasonable growth in the Company's original certificated area.

Maricopa County Environmental Services Department ("MCESD") Compliance

According to MCESD compliance status report, dated December 6, 2013, MCESD has determined that the Company's water system has no major deficiencies and is currently delivering water that meets water quality standards required by 40 C.F.R. 141 (National Primary Drinking Water Regulations) and Arizona Administrative Code, Title 18, Chapter 4.

Arizona Department of Water Resources ("ADWR") Compliance

The Company is located in the Phoenix Active Management Area. According to an ADWR compliance status report, dated September 5, 2014, ADWR has determined that the Company's water system is not in compliance with ADWR requirements as the Company failed to file a System Water Plan.

ACC Compliance

On September 5, 2014, the Utilities Division Compliance Section noted that a check of the compliance database indicates that there are no delinquencies for Circle City. Therefore, Circle City is in compliance with the ACC Compliance Database at this time.

Curtailment Tariff

The Company has an approved Curtailment Tariff.

Backflow Prevention Tariff

The Company has an approved Backflow Prevention Tariff.

Conclusions/Recommendations

1. The Circle City water system has adequate well production and storage capacity to serve its present customer base and reasonable growth.
2. The Company is in compliance with MCESD regulations.
3. Circle City is in compliance with the ACC Compliance Database at this time.
4. Staff recommends that the Company file with Docket Control, as a compliance item in this docket by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/ or community water systems.

MEMORANDUM

TO: Blessing Chukwu
Executive Consultant III
Utilities Division

FROM: Lori H. Miller *lhm*
GIS Specialist
Utilities Division

THRU: Del Smith *DS*
Engineering Supervisor
Utilities Division

DATE: December 12, 2013

RE: **CIRCLE CITY WATER COMPANY, LLC (DOCKET NO. W-03510A-13-0397)**

The area requested by Circle City for a partial deletion has been plotted with no complications using the legal description from Decision No. 68246 as referenced in the application (a copy of which is attached).

Also attached is a copy of the map for your files.

/lhm

Attachment

cc: Mr. Robert T. Hardcastle
Ms. Katrin Stukov
Ms. Deb Person (Hand Carried)
File

MARICOPA COUNTY

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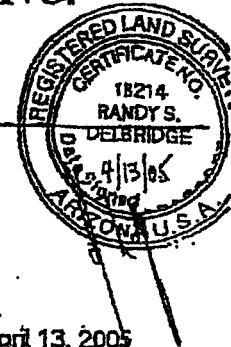
Circle City Water Company, LLC
Docket No. W-03510A-13-0397
Application for Deletion

SOUTHWESTERN STATES SURVEYING, INC.

Professional Land Surveying

Randy S. Delbridge, President

21415 North 23rd Avenue • Phoenix, Arizona 85027
Phone (623) 863-0223 Fax (623) 869-0728



DESCRIPTION FOR TOTAL AREA

Job no. 210750

April 13, 2005

Being all of Sections 5, 6, 7, 8, 9, 17, 18 and a portion of Section 4, Township 6 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

BEGINNING at the Southwest corner of said Section 18, being a G.L.O. Brass Cap;
THENCE North 00 degrees 01 minutes 37 seconds East, along the West line of the Southwest quarter of said Section 18 a distance of 2640.12 feet to the West quarter corner of said Section 18, being a G.L.O. Brass Cap;
THENCE North 00 degrees 02 minutes 20 seconds West, along the West line of the Northwest quarter of said Section 18 a distance of 2639.18 feet to the Northwest corner of said Section 18, being a G.L.O. Brass Cap;
THENCE North 00 degrees 00 minutes 00 seconds East, along the West line of said Section 7, a distance of 5284.62 feet to the Northwest corner of said Section 7, being a G.L.O. Brass Cap;
THENCE North 00 degrees 07 minutes 21 seconds East, along the West line of the Southwest quarter of said Section 6 a distance of 2640.71 feet to the West quarter corner of said Section 6, being a G.L.O. Brass Cap;
THENCE North 00 degrees 07 minutes 15 seconds West, along the West line of the Northwest quarter of said Section 6 a distance of 2636.20 feet to the Northwest corner of said Section 6, being a G.L.O. Brass Cap;
THENCE South 89 degrees 55 minutes 08 seconds East, along the North line of the Northwest quarter of said Section 6 a distance of 2499.21 feet to the North quarter corner of said Section 6, being a G.L.O. Brass Cap;
THENCE South 89 degrees 10 minutes 12 seconds East, along the North line of the Northeast quarter of said Section 6 a distance of 498.80 feet to the South quarter corner of Section 31, Township 7 North, Range 2 West, being a G.L.O. Brass Cap;
THENCE North 89 degrees 50 minutes 21 seconds East, continuing along the North line of the Northeast quarter of said Section 6 a distance of 2140.66 feet to the Northeast corner of Section 6, being a G.L.O. Brass Cap;
THENCE South 89 degrees 53 minutes 38 seconds East, along the North line of the Northwest quarter of said Section 5 a distance of 501.45 feet to the Southwest corner of said Section 32, Township 7 North, Range 2 West, being a G.L.O. Brass Cap;
THENCE South 89 degrees 54 minutes 32 seconds East, continuing along the North line of the Northwest quarter of said Section 5 a distance of 2148.21 feet to the North quarter corner of Section 5, being a G.L.O. Brass Cap;
THENCE North 89 degrees 07 minutes 14 seconds East, along the North line of the Northeast quarter of said Section 5 a distance of 499.67 feet to the South quarter corner of Section 32, Township 7 North, Range 2 West being a G.L.O. Brass Cap;
THENCE South 89 degrees 43 minutes 38 seconds East, continuing along the North line of the Northeast quarter of said Section 5 a distance of 2148.06 feet to the Northeast corner of said Section 5, being a G.L.O. Brass Cap;

EXHIBIT A

DECISION NO. 68246

Page 2.

Total Description

THENCE North 89 degrees 58 minutes 03 seconds East, along the North line of the Northwest quarter of said Section 4 a distance of 497.01 feet to the Southwest corner of Section 33, Township 7 North, Range 2 West, being a G.L.O. Brass Cap;
 THENCE South 89 degrees 57 minutes 12 seconds East, continuing along the North line of the Northwest quarter of said Section 5 a distance of 823.19 feet to the Northeast corner of G.L.O. Lot 4;
 THENCE South 00 degrees 10 minutes 24 seconds East, along the East line of said Lot 4 a distance of 1352.71 feet to the Southeast corner of said Lot 4;
 THENCE North 89 degrees 58 minutes 58 seconds East 2637.17 feet;
 THENCE South 00 degrees 11 minutes 19 seconds East 660.77 feet;
 THENCE North 89 degrees 57 minutes 42 seconds East 989.08 feet;
 THENCE South 00 degrees 11 minutes 32 seconds East 660.42 feet;
 THENCE North 89 degrees 56 minutes 29 seconds East 329.71 feet to the East quarter corner of said Section 4;
 THENCE South 00 degrees 11 minutes 37 seconds West, along the East line of the Southeast quarter of said Section 4 a distance of 2641.22 feet to the Southeast corner of said Section 4, being a G.L.O. Brass Cap;
 THENCE South 00 degrees 02 minutes 34 seconds West, along the East line of the Northeast quarter of said Section 9 a distance of 2638.28 feet to the East quarter corner of said Section 9, being a G.L.O. Brass Cap;
 THENCE South 00 degrees 03 minutes 39 seconds West, along the East line of the Southeast quarter of said Section 9 a distance of 2635.85 feet to the Southeast corner of said Section 9, being a G.L.O. Brass Cap;
 THENCE North 89 degrees 55 minutes 39 seconds West, along the South line of the Southeast quarter of said Section 9 a distance of 2838.76 feet to the South quarter corner of Section 9, being a G.L.O. Brass Cap;
 THENCE North 89 degrees 54 minutes 43 seconds West, along the South line of the Southwest quarter of said Section 9 a distance of 2639.18 feet to the Southwest corner of Section 9, being a G.L.O. Brass Cap;
 THENCE South 00 degrees 10 minutes 03 seconds West, along the East line of the Northeast quarter of said Section 17 a distance of 2637.41 feet to the East quarter corner of said Section 17, being a G.L.O. Brass Cap;
 THENCE South 00 degrees 10 minutes 03 seconds West, along the East line of the Southeast quarter of said Section 17 a distance of 2637.41 feet to the Southeast corner of said Section 17, being a G.L.O. Brass Cap;
 THENCE North 89 degrees 40 minutes 41 seconds West, along the South line of the Southeast quarter of said Section 17 a distance of 2638.22 feet to the South quarter corner of said Section 17, being a G.L.O. Brass Cap;
 THENCE North 89 degrees 54 minutes 18 seconds West, along the South line of the Southwest quarter of said Section 17 a distance of 2840.09 feet to the Southwest corner of Section 17, being a G.L.O. Brass Cap;
 THENCE North 89 degrees 57 minutes 37 seconds West, along the South line of the Southeast quarter of said Section 18 a distance of 2640.12 feet to the South quarter corner of said Section 18, being a G.L.O. Brass Cap;
 THENCE North 89 degrees 56 minutes 11 seconds West, along the South line of the Southwest quarter of said Section 18 a distance of 2514.54 feet to the Southwest corner of said Section 18, being the Point of Beginning.



THE SOUTHEAST QUARTER OF SECTION 28
LEGAL DESCRIPTION

THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 3
WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY,
ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 28, MONUMENTED BY A
G.L.O. BRASS CAP:

THENCE NORTH $89^{\circ}59'07''$ WEST ALONG THE SOUTH LINE OF THE SOUTHEAST
QUARTER OF SAID SECTION 28, ALSO BEING THE BASIS OF BEARING, A
DISTANCE OF 2844.53 FEET TO THE SOUTH QUARTER CORNER OF SECTION 28
MONUMENTED BY A G.L.O. BRASS CAP

THENCE NORTH $00^{\circ}01'21''$ WEST ALONG THE NORTH-SOUTH MID-SECTION LINE
OF SAID SECTION 28 A DISTANCE OF 2839.37 FEET TO THE CENTER OF
SECTION OF SAID SECTION 28, MONUMENTED BY A REBAR WITH RLS 9087 CAP;

THENCE NORTH $89^{\circ}58'37''$ EAST ALONG THE EAST-WEST MID-SECTION LINE A
DISTANCE OF 2644.57 FEET TO THE EAST QUARTER CORNER OF SECTION 28,
MONUMENTED BY A G.L.O. BRASS CAP;

THENCE SOUTH $00^{\circ}01'17''$ EAST ALONG THE EAST LINE OF THE SOUTHEAST
QUARTER OF SAID SECTION 28 A DISTANCE OF 2641.11 FEET TO THE
SOUTHEAST CORNER OF SECTION 28, BEING THE POINT OF BEGINNING;

THE ABOVE DESCRIPTION BASED ON AN A.L.T.A SURVEY BY SOUTHWESTERN
STATES SURVEYING, INC. DATED JUNE 28, 2004, JOB NUMBER 240694.



DECISION NO 6826

Blessing Chukwu

From: Garry Hays <ghays@lawgdh.com>
Sent: Wednesday, July 23, 2014 1:57 PM
To: Blessing Chukwu
Subject: CCWC Deletion W-03510A-13-0397
Attachments: LP5K LTR to Hardcastle 12-11-13.pdf

Ms. Chukwu,

Please find attached a letter that was sent from my client to Bob Hardcastle of CCWC. I am sending you this letter as a supplement to Staff's first set of data requests in the above referenced docket.

Thank you

Garry

garry hays

Garry Hays
Law Offices of Garry Hays PC
1702 E Highland Ave. Suite 204
Phoenix, Arizona 85016
602-308-0579 office
480-329-6143 cell

Note: This e-mail message and/or any attachments may be confidential and subject to attorney/client privilege. Use or dissemination of the message or any attachments by anyone other than the intended recipient is strictly prohibited and may violate federal or state law. If you are not the intended recipient, please immediately notify the sender and destroy the message, attachment(s), and all printed copies thereof. Thank you for your cooperation.

Lake Pleasant 500, L.L.C.
17700 N. Pacesetter Way, Suite 100
Scottsdale, AZ 85255
480.348.1118

December 11, 2013

VIA EMAIL TO RTH@BROOKEUTILITIES.COM AND REGULAR MAIL

Mr. Robert T. Hardcastle
Brooke Utilities, Inc.
P.O. Box 82218
Bakersfield, California 93380-2218

Re: Circle City Water Co. CC&N

Dear Bob:

I am writing in response to the application Circle City Water Company ("CCWC") filed at the Arizona Corporation Commission ("Commission") that requested a deletion of the Certificate of Convenience and Necessity ("CC&N") covering the Warrick 160 and Lake Pleasant 5000 LLC ("LP5K") property. I was extremely disappointed by your filing. As you are aware, LP5K intends to move forward with the development and is adamantly opposed to the deletion of the CC&N.

This letter will formally serve as a reiteration of the Request for Service letter received by CCWC on September 30, 2004 from LP5K. I advised you, in an email dated July 10, 2013 that LP5K intended to move forward and did not want the CC&N deleted. As you are aware, LP5K has a Water Facilities Agreement ("WFA") with CCWC and has met its contractual obligations under the WFA. In fact, in accordance with Section II, paragraph 5 of the WFA, LP5K paid CCWC \$67,782.61 on July 18, 2013. This payment was made and received when you were fully aware of LP5K's intentions. While you have attempted to get LP5K to sign a termination agreement, I have advised you numerous times that LP5K and its development partners are moving forward with this project.

LP5K will be filing an application for leave to intervene and will explain to the Commission the need for service and the desire to keep the CC&N in place. LP5K is ready and willing to present its case in front of the Commission. If there is any way we can resolve this matter without wasting the Commission's resources, please feel free to call me.

LAKE PLEASANT 5000 L.L.C.,

By: Harvard 5K, L.L.C., its Manager

By: Harvard Investments, Inc., its Manager

By: 
Christopher J. Cacheris, Vice President

EXHIBIT 3

Water Facilities Agreement

This Water Facilities Agreement ("Agreement") entered into this 1 day of March, 2005, by and between Circle City Water Company, LLC ("Circle City") with primary business offices located at 3101 State Rd., Bakersfield, California 93306 and Harvard Investments, Inc. ("Developer") with its principal mailing address at 17700 N. Pacesetter Way Scottsdale, Arizona 85255 (hereafter collectively referred to as the "Parties"). The Parties contemplate the Developer's construction of on-site and off-site water utility plant necessary to provide domestic service, as further described herein, for Developer's project, Lake Pleasant 5000 ("Development"), which development is more fully described by Exhibit I attached hereto.

Section I: Recitals

1. WHEREAS, Circle City is a properly organized Arizona corporation in good standing; and,
2. WHEREAS, Circle City is public service corporation within the meaning of Article XV of the Arizona Constitution; and,
3. WHEREAS, Circle City operates a water utility system subject a Certificate of Convenience and Necessity ("CC&N") by the Arizona Corporation Commission ("ACC"), and also subject to the various joint and several jurisdictions of Arizona Department of Environmental Quality ("ADEQ"), Arizona Department of Water Resources ("ADWR") and other regulatory authorities, not expressly described by this section, which may have jurisdiction over certain aspects of the operations of Circle City; and,
4. WHEREAS, Developer is a private party that has requested, pursuant to its Request for Service letter dated September 30, 2004, that Circle City provide potable domestic water service to the Development, which is outside of its present CC&N. Wastewater utility service will be provided to the Development by a municipality or private utility provider and Developer is in the process of obtaining necessary approvals and agreements for such service; and,
5. WHEREAS, Circle City has accepted Developer's request to provide potable domestic water service to the Development subject to obtaining ACC approval to extend its CC&N to include the Development; and,
6. WHEREAS, Circle City is willing to file an application with the ACC requesting an extension of its CC&N to include the Development, in accordance with Section VIII of this Agreement; and
7. WHEREAS, Circle City does not presently operate a water distribution system able to serve potable domestic water to the Development without contemplation of this Agreement; and
8. WHEREAS, Developer is willing to construct facilities, both on-site distribution and off-site water infrastructure utility facilities necessary for Circle City to serve the Development; and
9. WHEREAS, concurrently with the filing to extend its CC&N, Circle City also intends to seek authority from the ACC to collect an Off-Site Hook-Up Fee to fund construction of off-site infrastructure including wells, storage tanks, booster pumps, pressure tanks, transmission mains and/or related appurtenances necessary for proper operation, including engineering and design costs; and
10. WHEREAS, if the ACC approves the proposed Off-Site Hook-Up Fee Tariff in a form materially similar to that proposed by Circle City and attached hereto as Exhibit II, Circle City agrees to treat Developer's construction of off-site facilities consistent with that tariff.

NOW, THEREFORE BE IT RESOLVED the Parties to this Agreement do hereby agree as follows:

Section II: Construction Of On-Site And Off-Site Facilities, Treatment of Costs, Payment of Administrative Costs

1. Developer will construct, or cause to be constructed, on-site distribution facilities sufficient to fully satisfy Developer's requirements for water utility service to the Development by Circle City as further described by this Agreement.
2. Developer will also construct, or cause to be constructed, water infrastructure facilities, including wells, storage tanks, booster pumps, pressure tanks, transmission mains and/or related appurtenances sufficient to fully satisfy Developer's requirements for water utility service to the Development by Circle City as further described by this Agreement. The off-site water infrastructure facilities necessary for Circle City to extend water utility service to the Development are described in the Water Master Plan for Lake Pleasant 3,000 attached hereto as Exhibit III and incorporated herein by this reference.
3. Developer shall determine the financing and timing for construction of the on-site and off-site facilities. The cost of the off-site facilities will constitute a credit against any amounts Developer would be obligated to pay under an Off-Site Hook-Up Fee Tariff (Exhibit II), if such charge is authorized by the ACC following application made by Circle City as requested by Developer. The estimated cost of the on-site distribution facilities described in Exhibit III is Twenty-Four Million, Two Hundred and Sixty Thousand Dollars (\$24,260,000) and shall hereinafter be referred to as the "estimated advance." The estimated cost of the off-site facilities described in Exhibit III is Thirty Million, Seven Hundred and Forty Five Thousand, Ninety-Two Dollars (\$30,745,092) and shall hereinafter be referred to as the "estimated off-site hook-up fee credit." To the extent the off-site facilities costs exceed the estimated off-site hook up fee credit, or, if the ACC does not approve the Off-Site Hook-Up Fee Tariff in a form materially similar to that attached as Exhibit II, Developer will be responsible to finance the costs of any off-site facilities necessary for Circle City to furnish water utility service to the Development and any such amounts will be treated as non-refundable contributions in aid of construction.
4. Developer agrees that the size, design, type and quality of materials used to construct the on-site distribution facilities and off-site water infrastructure facilities (collectively, the on-site and off-site facilities are referred to at times herein as the "improvements"), as well as the location of these facilities upon and under the ground, shall be approved by Circle City prior to the commencement of construction and that these facilities shall be designed and constructed in accordance with all applicable standards of Circle City, ADEQ, ACC and any other governmental agencies exercising jurisdiction over the design and construction of water utilities systems. The total cost estimates for the improvements are more fully described in Exhibit IV. All plans and specifications shall be submitted to Circle City prior to submission for approval by any regulatory agencies and Circle City shall have thirty (30) days within which to revise or approve the plans. If Circle City does not provide comments within that thirty-day period, the plans and specifications will be deemed approved by Circle City. Circle City shall have the right to require certain configurations that meet prudent utility practice and general industry practice, to participate in design review and design verification activities, pre- and post-construction inspection requirements, commissioning requirements, test and trials (design validation), and to prescribe certain equipment over other equipment, provided, however, Circle City cannot require changes to the configuration, design or equipment after approval of the plans and specifications.
5. In addition to the estimated advance and estimated off-site hook-up fee credit, Developer shall additionally pay to Circle City an amount sufficient to pay for reasonable administrative costs, including accounting, engineering and inspection services in connection with the construction of the

on-site and off-site facilities, and verifiable legal expenses for the preparation of this Agreement, request for expansion of its CC&N and approval of an off-site hook-up fee. Circle City shall, upon request, provide proof of such costs to Developer prior to reimbursement by Developer of any such costs incurred by Circle City. Developer shall also reimburse Circle City for its reasonable pecuniary costs incurred in the management, supervision and inspection of Improvements.

6. All funds payable pursuant to this Agreement, including any adjustments thereto, shall be paid by Developer to Circle City in the form of certified cashiers check or personal check or other means agreed by the Parties, the validity of which shall be determined only after satisfaction of same by the financial institution upon which it is drawn.
7. If, for any reason, any balance remains unpaid by Developer, Circle City shall be paid by Developer prior to Circle City's acceptance of transfer of the on-site and off-site facilities. **DEVELOPER ACKNOWLEDGES AND AGREES THAT IT IS THE EXPRESSED PURPOSE OF THIS SECTION NOT TO PERMIT THE EXTENSION OF SERVICE BY CIRCLE CITY TO ANY LOT OR CUSTOMER IN THE DEVELOPMENT UNTIL ALL AMOUNTS BEING FULLY PAID WHICH WERE INCURRED IN CONNECTION WITH THIS AGREEMENT.**

Section III: Conditions of Facilities Construction

1. The acceptance by Circle City of any conveyance of the Improvements to be constructed by Developer, as referenced in Exhibit III and Exhibit IV respectively, are further conditioned upon Developer's acceptance of each of the following conditions:
 - a) That Developer connect at least one (1) water service connection to the property described in Exhibit I, except as may otherwise be expressly provided by this Agreement.
 - b) That prior to the commencement of construction of any Improvements, all permits, approvals, licenses and easements required in connection with any on-site and/or off-site facilities shall be obtained, recorded, transferred or otherwise developed by Developer retaining the right to ultimately transfer all such permits, approvals, licenses and easements in to Circle City so as to completely satisfy all authorities having jurisdiction over regulation or approval of any on-site and/or off-site facilities.
 - c) That all easements and rights-of-way shall be free of obstacles which may interfere with construction or subsequent operation of any Improvements contemplated by this Agreement, as exclusively determined by Circle City. If facilities require road, pavement and/or concrete construction, all such development shall be constructed at grade elevations. No pavement or curbs shall be installed prior to completion of any Improvements contemplated by this Agreement or otherwise approved in advance of construction by Circle City. If any streets, roads, alleys, or drainage ways are not constructed in accordance with this section, Developer shall bear all costs of every type and description, on a non-refundable basis, that are incurred by Developer or Circle City to relocate facilities as a result of said facilities not being constructed in accordance with this section.
 - d) That no engineering changes be made, caused, required or incurred by Developer in connection with any utility construction standards, any regulatory authority or any State or County health department, or any other public agency under whose jurisdiction the construction of the facilities contemplated under this Agreement may be deemed appropriate, without the advance written approval of Circle City, which approval shall not be unreasonably withheld.

- e) That Developer comply with any additional terms and conditions as may be set forth in other sections of this Agreement, which may be attached hereto and incorporated by reference for all purposes.

Section IV: Service, Circle City Liability Limitations

1. Notwithstanding any reference to fire protection facilities contained in this Agreement, the Improvements are being constructed by Developer and will be transferred to Circle City for the purpose of providing domestic water service to the Development. However, under certain operating conditions as exclusively determined by Circle City, the Improvements may be used, with the prior written approval of Circle City, to provide limited emergency fire protection service to an official fire protection agency which has previously contracted with Circle City for such service.
2. It is understood by Developer, as evidenced by the execution of this Agreement, that Circle City does not have the responsibility to provide, and shall not construct under this Agreement, facilities capable of providing any fire flow to the Improvements. Therefore, it is expressly agreed and understood by Developer that **CIRCLE CITY DOES NOT GUARANTEE OR ENSURE UNINTERRUPTED OR REGULAR WATER SERVICE. NOR DOES CIRCLE CITY REPRESENT THE AVAILABILITY OF ADEQUATE PRESSURE, VOLUME OR FIRE FLOW FROM THE SYSTEM BY OFFERING DOMESTIC WATER SERVICE PURSUANT TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION SECTION XI PARAGRAPH 16.**
3. It is agreed that in the event that service from a fire hydrant, or an interior fire sprinkler system which is used for non-fire protection purposes, is interrupted or is irregular or defective or fails from causes beyond Circle City's control, or through the negligence or alleged negligence of its employees, servants, agents or other representatives, Circle City shall not be liable for any injuries or damages arising therefrom. Further, Circle City shall have neither the responsibility nor the liability for any use or disposition of fire hydrant or fire protection water, even if such use or disposition is attributable, or is alleged to be attributable to the negligence of Circle City's employees, agents, servants, or other representatives. Developer, or any other person or entity which succeeds to Developer's interest, REGARDLESS OF WHETHER SUCH PERSON OR ENTITY HAS KNOWLEDGE OR NOTICE OF THESE TERMS, shall make no claim against Circle City for any such loss or damage resulting from services provided under this Agreement or the applicable service tariff. Circle City shall be entitled to recover its reasonable attorney's fees should Developer fail to properly comply with this provision.

Section V: Rates and Tariffs

1. It is understood and agreed by Developer, as evidenced by its execution of this Agreement, that all charges for domestic water services to the Development shall, at all times, be at then applicable tariffs of Circle City as established by the ACC, including an Off-Site Hook-Up Fee Tariff if approved by the ACC, which approval will be sought by Circle City concurrent with its request to extend its CC&N to include the Development. Circle City's tariffs are subject to change from time to time upon application by Circle City and as approved by the Commission.

Section VI: Permits and Licenses, Easements, Title

1. Circle City and Developer agree to obtain all permits and licenses from all authorities having jurisdiction which may be required for the construction of any of the Improvements necessary for Circle City to provide water utility service to the Development.
2. Prior to the commencement of construction any Improvements, Developer shall, if applicable, obtain from the owners of any property upon which on-site and/or off-site facilities are to be constructed, a

perpetual private water utility easement for construction, operation and maintenance of the improvements on the behalf of, and in the name of, Circle City and in a form acceptable to Circle City.

3. All materials, facilities constructed, and water supply equipment provided in connection with construction of any improvements under this Agreement and the completed facilities as installed shall be transferred by bill of sale and/or any other necessary conveyance document to Circle City, and thereafter shall become the sole and exclusive property of Circle City, and full legal and equitable title therein shall be completely and fully vested in Circle City, free and clear of any liens. Developer agrees to execute or caused to be executed promptly all such documents as Circle City or its representatives may request to evidence good and merchantable title to said improvements free and clear of all liens.

Section VII: Advance Amount, Refund, Transfer

1. As described by this Agreement, all advances for on-site distribution facilities shall be made by Developer as specified hereunder. If the actual costs of on-site distribution facilities are revised, in accordance with this Agreement, the additional advance shall be applied thereto and/or adjusted by the same amount.
2. All costs of on-site distribution facilities advanced hereunder and applicable administrative, legal, accounting, engineering, inspection and other pecuniary costs for supervision and management shall be refunded in accordance with A.A.C. § R14-2-406(D) - 10% of all revenue generated by customers within the Development each year for 20 years beginning with the commencement of water utility service within the Development. Under no circumstance shall Developer be entitled to, or receive, any amount in excess of the actual costs of on-site distribution facilities and applicable administrative, legal and engineering costs, nor shall Developer receive any refund from Circle City of any amounts paid for off-site facilities, whether such amounts are paid pursuant to an ACC-approved Off-Site Hook-Up Fee tariff or otherwise.
3. Subject to Appendix 1, attached hereto, the costs to be paid by Developer hereunder for any improvements do not include any amount necessary for the payment of State or federal income taxes in connection therewith, which amounts shall be the responsibility of Developer should such income tax liabilities be imposed on Circle City at a later date as a result of the payment of any amounts and/or the conveyance of any facilities by Developer to Circle City under the Agreement.
4. Developer understands, acknowledges and agrees, as evidenced by its execution of this Agreement, that it is solely responsible to notify Circle City of any change of address used in connection with any provision hereunder. All changes of address of Developer should be forwarded in writing to Circle City's offices as first set forth above.
5. In the event of the sale, conveyance or transfer by Circle City, pursuant to the approval of the Regulatory Authorities, of any portion of its water system, including the facilities serving the Development and installed pursuant to the terms of this Agreement, Circle City's obligations under this Agreement shall cease (except to any payment which may be then due) conditioned upon the transferee assuming, and agreeing to pay Developer, any sums payable to Developer thereafter in accordance with any provisions of this Agreement.

Section VIII: Extension of Circle City's CC&N

1. Circle City hereby agrees to file an application with the ACC for the expansion of its CC&N to include the Development as well as a request for authority to collect an Off-Site Hook-Up Fee under the form of tariff represented in Exhibit II.
2. All obligations under this Agreement shall be conditioned upon Circle City gaining authority, free from any unreasonable condition, from the ACC to include the Development in Circle City's

certificated service area. Further, Developer covenants and agrees to support Circle City's application to extend its CC&N and for approval of an Off-Site Hook-Up Fee Tariff, and shall, upon request by Circle City and/or its assigns, provide testimony and/or public comment supporting Circle City's application in connection with any proceeding before the ACC. In the event the ACC does not grant Circle City's request for a CC&N extension, Circle City's and Developer's obligations under this Agreement will terminate, except that Developer will still be responsible to reimburse Circle City for its reasonable and verifiable administrative, accounting, legal, engineering, inspection and other similar costs incurred under this Agreement prior to its termination under this provision.

Section IX: General Conditions

1. Each of the recitals set forth in Section I above are hereby incorporated into this Agreement by this reference as if fully set forth herein. This Agreement may not be modified or amended except by a writing signed by both parties. The remedies provided for in this Agreement shall not be deemed either Parties' exclusive remedies but shall be in addition all other remedies available to Circle City at law or equity. No waiver by Circle City of any breach by Developer of any provision of this Agreement shall in any way be construed as a waiver of any future or subsequent breach by Developer or bar the right of Circle City to insist on strict performance by Developer of the provisions in this Agreement in the future. Developer is an independent party and not an agent or employee of Circle City.
2. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, assigns and representatives; provided, however, that no assignment or transfer of any of the obligations, powers, duties or rights created in the obligee or assignee by this Agreement shall be binding upon any of the Parties to this Agreement until such assignment or transfer is approved in writing by each of the Parties hereto.
3. If any suit or other action or proceeding is brought to enforce the terms of this Agreement, the prevailing party in such action shall be entitled to recover reasonably attorneys' fees and costs, such amounts as may be established by a court and not a jury.
4. This Agreement embodies the entire agreement between the Parties and supercedes all prior and contemporaneous oral or written agreements, representations and understandings, if any, relating to the subject matter hereof which shall hereby be superseded and merged. All documents attached to this Agreement shall be read and interpreted as consistent with one another.
5. Section headings are for the convenience of reference only and shall in no way affect the interpretation of this Agreement. This Agreement is the result of good faith negotiations between the Parties and, accordingly, shall not be construed for or against either Party regardless of which Party drafted this Agreement or any portion thereof.
6. Developer does not intend the benefits of this Agreement to inure to any third party, nor shall this Agreement be construed to make or render Circle City liable to any creditor, materialman, supplier, tax collector, contractor, subcontractor, broker, purchaser or lessee of the Improvements.
7. Each Party shall execute and deliver all such documents and perform all such acts as reasonably requested by any party from time to time to perform the duties and obligations contemplated by this Agreement.
8. All annexes, schedules and exhibits attached hereto are hereby incorporated into this Agreement by each reference thereto as if fully set forth at each reference.
9. Each Party acknowledges and warrants that it is fully authorized and empowered to execute this Agreement by and through the individuals executing below.

10. Any notices or communication required or permitted to be given to any of the Parties to this Agreement must be in writing and shall be effective upon the earlier of (a) the date when received by such party, or (b) the date which is three (3) days after mailing, postage prepaid, by certified or registered mail, return receipt requested, to the address of such party as indicated below, or (c) by telefacsimile delivered or transmitted to the party to whom such notice is required or directed in accordance with that information first set forth above. Any such notices to be personally delivered may be delivered to the principal offices or location of the other party to whom such notice is directed. Any such notice shall be deemed to have been given (whether actually received or not) on the day it is personally delivered as aforesaid. Any party to this Agreement may change its address or delivery location by giving notice to the other party pursuant to this section.
11. Time is of the essence with regard to each provision of this Agreement as to which time is a factor. If this Agreement provides that any time period expires or date for performance specified in this Agreement falls on a non-business day (i.e. Saturday, Sunday or legal holiday recognized by the State of Arizona), such time period or performance deadline shall be extended to the next business day.
12. This Agreement has been prepared, is being executed and delivered, and is intended to be performed in the State of Arizona. The substantive laws of the State of Arizona and the applicable federal laws of the United States of America shall govern the validity, construction, enforcement and interpretation of this Agreement and all documents related hereto without regard to conflict of the law rules.
13. The Parties hereto agree to do all such things and take all such action, and to make, execute and deliver such documents and instruments, as shall be reasonably requested to carry out the provisions, intent and purpose of this Agreement.
14. This Agreement may be executed in multiple counterparts, each of which, when so executed shall be deemed an original but all such counterparts shall constitute but one and the same Agreement.
16. Developer acknowledges that the on-site and certain off-site water infrastructure facilities are being installed for the purpose of providing domestic water service to the Development, which is further described in Exhibit I. Under certain operating conditions, the facilities may provide limited fire protection service to appropriate fire protection agencies contracting with the Circle City for such service. However, it is expressly understood by the Circle City and the Developer that Circle City will provide a minimum delivery pressure of 20 pound per square inch at the customer's meter or point of delivery in accordance with A.A.C. R14-2-407.E, but that Circle City does not guarantee or ensure uninterrupted or regular fire protection service. Developer further acknowledges that Circle City does not represent or warrant that the domestic water utility service provided by Circle City meets any rules, regulations or other standards for fire protection imposed by any governmental entity; nor does Circle City accept or assume any obligation of Developer, whether express or implied, pertaining to the property described in Exhibit I including, without limitation, encumbrances of water for fire protection purposes, except as expressly set forth in this Agreement.
17. Developer, if actually defined to represent more than a single individual, shall be jointly and severally liable for all duties and obligations under this Agreement.

Section X: Acceptance

IN WITNESS WHEREOF, the Parties do hereby agree to the foregoing covenants, terms and conditions of the Agreement dated as first set forth above.

LAKE PLEASANT 5000, L.L.C., an Arizona limited liability company

By: Harvard SK, L.L.C, an Arizona limited liability company

Its: Manager

By: Harvard Investments, Inc., a Nevada corporation

Its: Manager

By: _____

Its: _____

For: Circle City Water Co. L.L.C.

By: _____

Its: _____

Robert T. Hardcastle
Managing Member

who is this entity?

Section X: Acceptance

IN WITNESS WHEREOF, the Parties do hereby agree to the foregoing covenants, terms and conditions of the Agreement dated as first set forth above.

LAKE PLEASANT 3000, L.L.C., an Arizona limited liability company

By: Harvard JK, L.L.C, an Arizona limited liability company
Its: Manager
By: Harvard Investments, Inc., a Nevada corporation
Its: Manager

By: _____
Its: _____

For: Circle City Water Co. L.L.C.
By:
Its:



Robert T. Hardcastle
Managing Member

Exhibit I

Vicinity Map and Legal Description

Legal Description:

4,882 acres

PARCEL NO. 1:

The Southeast quarter; and

The Southeast quarter of the Southwest quarter of Section 4, Township 8 North, Range 2 West of the Gila and Salt River Basins and Meridian, Maricopa County, Arizona.

PARCEL NO. 2:

All of Section 5, Township 8 North, Range 2 West of the Gila and Salt River Basins and Meridian, Maricopa County, Arizona.

PARCEL NO. 3:

The East half of the Northwest quarter; and

The East half of the Southeast quarter of Section 17, Township 8 North, Range 2 West of the Gila and Salt River Basins and Meridian, Maricopa County, Arizona.

PARCEL NO. 4:

Lot 4; and

The Southwest quarter of the Northwest quarter; and

The Southwest quarter of the Southeast quarter of the Northwest quarter; and

The West half of the Southeast quarter of the Southeast quarter of the Northwest quarter; and

The South half of the Northwest quarter; and

The South half of Section 3, Township 8 North, Range 2 West of the Gila and Salt River Basins and Meridian, Maricopa County, Arizona.

EXCEPT the Southeast quarter; and also

EXCEPT the Southeast quarter of the Southwest quarter.

PARCEL NO. 5:

The Southeast quarter of the Northwest quarter of Section 5, Township 8 North, Range 2 West of the Gila and Salt River Basins and Meridian, Maricopa County, Arizona.

PARCEL NO. 6:

A.

174

Lots 4 and 5 of Section 8, Township 6 North, Range 2 West of the 6th and Salt River Basins and Madison, Maricopa County, Arizona.

PARCEL NO. 7:

The South half of the Northwest quarter and

The Southwest quarter of the Northwest quarter; and

The South half of Section 8, Township 6 North, Range 2 West of the 6th and Salt River Basins and Madison, Maricopa County, Arizona.

EXCEPT Lots 6 and 7.

PARCEL NO. 8:

All of Section 7, Township 6 North, Range 2 West of the 6th and Salt River Basins and Madison, Maricopa County, Arizona.

PARCEL NO. 9:

The Northwest quarter of the Northwest quarter of Section 8, Township 6 North, Range 2 West of the 6th and Salt River Basins and Madison, Maricopa County, Arizona.

PARCEL NO. 10:

All of Section 17, Township 6 North, Range 2 West of the 6th and Salt River Basins and Madison, Maricopa County, Arizona.

EXCEPT the East half of the Northwest quarter and the East half of the Southwest quarter of Section 17, Township 6 North, Range 2 West of the 6th and Salt River Basins and Madison, Maricopa County, Arizona.

PARCEL NO. 11:

All of Section 18, Township 6 North, Range 2 West of the 6th and Salt River Basins and Madison, Maricopa County, Arizona.

EXCEPT the Northwest quarter of the Northwest quarter thereof.

PARCEL NO. 12:

The South half of Section 9, Township 6 North, Range 2 West of the 6th and Salt River Basins and Madison, Maricopa County, Arizona.

PARCEL NO. 13:

Section 8, Township 6 North, Range 2 West of the 6th and Salt River Basins and Washita,
Maricopa County, Arizona

EXCEPT the Northwest quarter of the Northwest quarter thereof.

PATENT NO. 14:

The North half of Section 8, Township 6 North, Range 2 West of the 6th and Salt River Basins
and Washita, Maricopa County, Arizona

EXCEPT the Southeast quarter of the Northwest quarter of said Section 8; and also

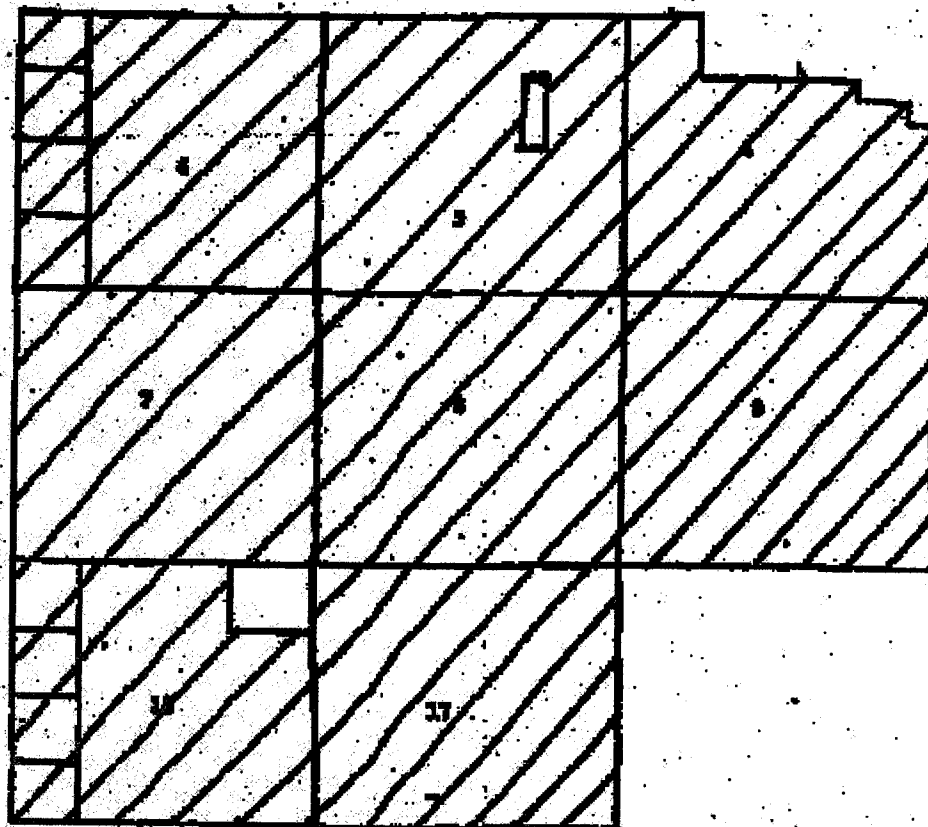
EXCEPT the East half of the East half of the Southeast quarter of the Northwest quarter of
said Section 8.

PATENT NO. 15:

Governmental Lots 1, 2, 3, 4 and 7, Section 8, Township 6 North, Range 2 West of the 6th
and Salt River Basins and Washita, Maricopa County, Arizona.

Sheet 12

Transect 1 North, Range 2 West of the Nile and Salt River Seas and Mountains,
Barro Colorado, Panama.



160 acres

EXHIBIT "A"

Legal Description of Property

Parcel 1:

The Southeast quarter of Section 28, Township 6 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona; EXCEPT the North 210.00 feet of the South 2090.00 feet of the West 210.00 feet of the East 910.00 feet.

Parcel 2:

The North 210.00 feet of the South 2090.00 feet of the West 210.00 feet of the East 910.00 feet of the Southeast quarter of Section 28, Township 6 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

Exhibit II

PROPOSED OFF-SITE HOOK-UP FEE TARIFF

TARIFF SCHEDULE

UTILITY: CIRCLE CITY WATER COMPANY

SHEET NO. 1

DOCKET NO. W-

DECISION NO. _____ (_____, 2005)

EFFECTIVE DATE:

OFF-SITE HOOK-UP FEE

I. Purpose and Applicability.

The purpose of the off-site hook-up fees payable to Circle City Water Company ("the Company") pursuant to this tariff is to equitably apportion the costs of constructing additional off-site facilities to provide water production, delivery, storage and pressure among all new service connections. These charges are applicable to all new service connections established after the effective date of this tariff. The charges are one-time charges and are payable as a condition to Company's establishment of service, as more particularly provided below.

II. Definitions.

Unless the context otherwise requires, the definitions set forth in R-14-2-401 of the Arizona Corporation Commission's ("Commission") rules and regulations governing water utilities shall apply in interpreting this tariff schedule.

"Applicant" means any party entering into an agreement with Company for the installation of water facilities to serve new service connections, and may include Developers and/or Builders of new residential subdivisions.

"Company" means Circle City Water Company, LLC, an Arizona limited liability company.

"Main Extension Agreement" means any agreement whereby an Applicant, Developer and/or Builder agrees to advance the costs of the installation of water facilities to the Company to serve new service connections, or install water facilities to serve new service connections and transfer ownership of such water facilities to the Company, which agreement shall require the approval of the Commission pursuant to A.A.C. R14-2-406, and shall have the same meaning as "Water Facilities Agreement" or "Line Extension Agreement."

"Off-Site Facilities" means wells, storage tanks and related appurtenances necessary for proper operation, including engineering and design costs. Off-Site facilities may also include booster pumps, pressure tanks, transmission mains and related appurtenances necessary for proper operation, if these facilities are not for the exclusive use of the applicant and will benefit the entire water system.

"Service Connection" means and includes all service connections for single-family residential or other uses, regardless of meter size.

III. Off-Site Hook-Up Fee.

For each new service connection, the Company shall collect an off-site hook-up fee derived from the following table:

OFF-SITE HOOK-UP FEE TABLE		
Meter Size	Size Factor	Total Fee
5/8" x 3/4"	1	\$3,000.00
3/4"	1.2	\$3,000.00
1"	2	\$7,500.00
1- 1/4"	4	\$15,000.00
2"	6.4	\$24,000.00
3"	12	\$48,000.00
4"	20	\$75,000.00
6" or larger	40	\$150,000.00

IV. Terms and Conditions.

(A) Assessment of One Time Off-Site Hook-Up Fee: The off-site hook-up fee may be assessed only once per parcel, service connection, or lot within a subdivision (similar to meter and service line installation charge).

(B) Use of Off-Site Hook-Up Fees: Off-site hook-up fees may only be used to pay for capital items of off-site facilities, or for repayment of loans obtained for installation of off-site facilities. Off-site hook-up fees shall not be used for repairs, maintenance, or operational purposes.

(C) Time of Payment:

a. For those requiring a Main Extension Agreement --

In the event that the person or entity that will be constructing improvements ("Applicant", "Developer" or "Builder") is otherwise required to enter into a Main Extension Agreement, whereby the Applicant, Developer or Builder agrees to advance the costs of installing mains, valves, fittings, hydrants and other on-site improvements in order to extend service in accordance with R-14-2-406 (B), payment of the fees required hereunder shall be made by the Applicant, Developer or Builder

no later than within 15 calendar days after receipt of notification from the Company that the Utilities Division of the Arizona Corporation Commission has approved the Main Extension Agreement in accordance with R14-2-406(M).

- b. For those connecting to an existing main that was installed pursuant to a Main Extension Agreement that was approved by the Arizona Corporation Commission –

In the event that the Applicant, Developer or Builder for service is not required to enter into a Main Extension Agreement, the charges hereunder shall be due and payable at the time the meter and service line installation fee is due and payable.

(D) Off-Site Facilities Construction By Developer: Company and Applicant, Developer or Builder may agree to construction of off-site facilities necessary to serve a particular development by Applicant, Developer or Builder, which facilities are then conveyed to Company. In that event, Company shall credit the total cost of such off-site facilities as an off-set to off-site hook-up fees due under this Tariff. If the total cost of the off-site facilities constructed by Applicant, Developer or Builder and conveyed to Company is less than the applicable off-site hook-up fees under this Tariff, Applicant, Developer or Builder shall pay the remaining amount of off-site hook-up fees owed hereunder. If the total cost of the off-site facilities constructed by Applicant, Developer or Builder and conveyed to Company is more than the applicable off-site hook-up fees under this Tariff, Applicant, Developer or Builder shall not be entitled to any refunds.

(E) Failure to Pay Charges: Delinquent Payments: The Company will not be obligated to provide water service to any Developer or , Builder or other applicant for service in the event that the Developer, Builder or other applicant for service has not paid in full all charges hereunder. Under no circumstances will the Company set a meter or otherwise allow service to be established if the entire amount of any payment has not been paid.

(F) Large Subdivision Projects: In the event that the Developer or Builder is engaged in the development of a residential subdivision containing more than 150 lots, the Company may, in its discretion, agree to payment of off-site hook-up fees in installments. Such installments may be based on the residential subdivision development's phasing, and should attempt to equitably apportion the payment of charges hereunder based on the Developer's or Builder's construction schedule and water service requirements.

(G) Off-Site Hook-Up Fees Non-refundable: The amounts collected by the Company pursuant to this Off-Site Hook-Up Fee Tariff shall be non-refundable contributions in aid of construction.

(H) Use of Off-Site Hook-Up Fees Received: All funds collected by the Company as off-site hook-up fees shall be deposited into a separate interest bearing trust account and used solely for the purposes of paying for the costs of off-site facilities, including repayment of loans obtained for the installation of off-site facilities that will benefit the entire water system.

(I) Off-Site Hook-Up Fee in Addition to On-Site Facilities: The off-site hook-up fee shall be in addition to any costs associated with the construction of on-site facilities under a Main Extension Agreement.

(J) Disposition of Excess Funds: After all necessary and desirable off-site facilities are constructed utilizing funds collected pursuant to the off-site hook-up fee, or if the off-site hook-up fee has been terminated by order of the Arizona Corporation Commission, any funds remaining in the trust shall be refunded. The manner of the refund shall be determined by the Commission at the time a refund becomes necessary.

(K) Fire Flow Requirements: In the event the applicant for service has fire flow requirements that require additional facilities beyond those facilities whose costs were included in the off-site hook-up fee, and which are contemplated to be constructed using the proceeds of the off-site hook-up fee, the Company may require the applicant to install such additional facilities as are required to meet those additional fire flow requirements, as a non-refundable contribution, in addition to the off-site hook-up fee.

Effective Date: _____

Approved for Filing in Compliance with
Decision No. _____

Exhibit III

Water Master Plan for Lake Pleasant 5000

Water Master Plan for

Lake Pleasant 5,000

Original Report Date: December 8, 2004

Revised Report Date: January 4, 2005

Prepared For:

Harvard Investments
17700 North Pacesetter Way
Scottsdale, Arizona 85255
Phone: 480-348-1118
Fax: 480-348-8878



Prepared By:

Scott M. Larson P.E.
J. Ryan Christensen P.E.



16806 North 29th Avenue, Suite 100
Phoenix, AZ 85083-7880
Phone: 602-467-3200
Fax: 602-467-3201

JN: 45-101890

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Abbreviations

ac	Acres
ADEQ	Arizona Department of Environmental Quality
ADWR	Arizona Department of Water Resources
AWWA	American Water Works Association
DU	Dwelling Units
EDU	Equivalent Dwelling Units
gal	Gallons
gpcpd	Gallons Per Capita Per Day
gpd	Gallons Per Day
gpm	Gallons Per Minute
LF	Linear Feet
MAG	Maricopa Association of Governments
MDR	Medium Density Residential (single family housing)
MF	Multiple Family
MG	Million Gallons
MGD	Million Gallons Per Day
n	Manning's Roughness
psi	Pounds Per Square Inch

1.0 Introduction

1.1 General Description

The proposed Lake Pleasant 5,000 development covers approximately 4,882 acres within Maricopa County. The proposed development is located within the City of Surprise General Plan area, and is anticipated to consist of approximately 10,000 residential dwelling units and 300 acres of commercial development. The general site location can be seen in Figure 1 Lake Pleasant 5,000 Vicinity Map.

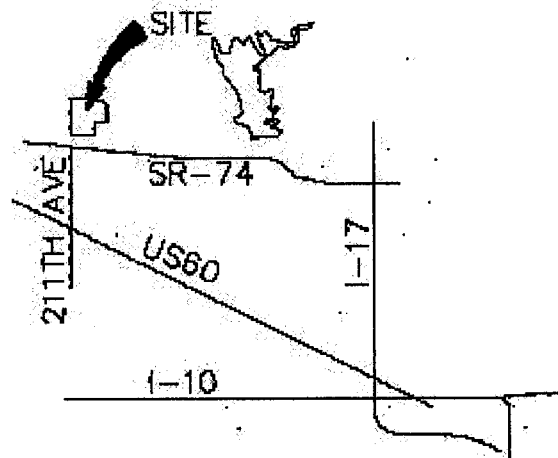


Figure 1 Lake Pleasant 5,000 Vicinity Map

1.2 Project Location

The Lake Pleasant 5,000 development includes sections 5, 6, 7, 8, 9, 17 and 18 as well as a majority portion of Section 4 in Township 6 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona. The site is located north of SR 74, south of the Maricopa County line, and east of the 211th Ave alignment.

1.3 Topographic Conditions

The Lake Pleasant 5000 development consists of undeveloped desert land. The northern and northeast portions of the site are dominated by mountainous terrain, while the eastern third of the site is fairly flat sloping from north to south at approximately a 3% grade.

1.4 Scope of Study

The purpose of this study is to provide a conceptual discussion of the water infrastructure necessary to serve the proposed Lake Pleasant 5,000 development. This study will discuss the potable water facilities required to serve the project. Storage, supply, and demands associated with the proposed development will be addressed. It is important to note, that the on-site distribution lines are not addressed within this study.

2.0 Distribution System

2.1 Pressure Zone Description

The proposed Lake Pleasant 5,000 development is anticipated to consist of five pressure zones. The pressure zone boundaries will be set at approximately 120-foot intervals. The anticipated pressure zones for the site are outlined in Table 1 Lake Pleasant 5,000 Pressure Zones. An exhibit showing the pressure zone boundaries is included in Appendix A Pressure Zone Map.

Table 1 Lake Pleasant 5,000 Pressure Zones

Zone	Low Contour	High Contour
P1	2,080	2,200
P2	2,200	2,320
P3	2,320	2,440
P4	2,440	2,560
P5	2,560	2,680

3.0 Projected System Demands

3.1 General

The Lake Pleasant 5,000 development is anticipated to consist of 10,000 dwelling units. The average day demands for the site were determined based on the projected number of residential dwelling units and the projected amount of commercial acreage. The projected population for the residential area was calculated by multiplying the number of dwelling units, by a population density of 3.2 people per dwelling unit (ppdu). The water demand for the site was calculated by multiplying the projected population by the new residential demand factors from the Arizona Department of Water Resources (ADWR) Third Management Plan for the Phoenix Active Management Area (AMA). These factors consist of an interior water demand of 57 gpcd and an exterior water demand of 178 gallons per dwelling unit. In order to maintain these demand factors, it was assumed that the residential turf areas would be limited to 900 ft², as defined by ADWR's Third Management Plan, and that other conservation measures identified in the Third Management Plan would be followed. A commercial demand of 2,000 gallons per acre was also used in these calculations. The demand factors used for this project are summarized in Table 2 Water Demand Factors.

Table 2 Water Demand Factors

Type	Demand	Unit
Residential Interior	57	gpd
Residential Exterior	178	gal/du/day
Commercial	2,000	gal/ac/day

Peaking factors for the maximum day and peak hour demands were estimated for the proposed Lake Pleasant 5,000 development. A maximum day peaking factor of 1.8 times the average day demand was assumed. While a peak hour peaking factor of 3.0 times the average day demand was assumed. The projected average day, maximum day, and peak hour demands are shown in Table 3 Lake Pleasant 5,000 Water Demands.

Table 3 Lake Pleasant 5,000 Water Demands

Avg Day		Max Day		Peak Hour	
(gpd)	gpm	(gpd)	(gpm)	(gpd)	(gpm)
4,204,000	2,919	7,567,200	5,255	12,612,000	8,758

It is important to note that water demands for the irrigation of the proposed golf courses have not been included within these calculations. The golf courses are planned to be irrigated through reclaimed water. Additionally, changes to the number of dwelling units, projected land uses, and varying individual water usage patterns could result in either an increase or decrease in actual water demand.

3.2 Fire Flow Demand

The proposed Lake Pleasant 5,000 water system will be capable of providing sufficient fire flow throughout the development. The required fire flow will depend on the land use in each area, but is anticipated to range from a minimum of 1,000 gpm within the residential areas up to 3,000 gpm within the commercial areas.

4.0 Water Storage

The volume of water storage to be included within the site has been calculated to provide a reliable water system. Sufficient water storage is projected to be stored on site in order to meet the maximum day water demand. The water storage volume projected for the proposed Lake Pleasant 5,000 development is a total of 7.6 million gallons. It is anticipated that this storage would be provided through two 2.30 million gallon tanks and two 1.50 million gallon tanks. The location of the water storage reservoirs throughout the site will be determined at a future time.

Additionally, one 500,000 gallon storage tank is anticipated to be constructed at the well field. This tank will be used to help reduce cycling of the well pumps and to provide temporary storage before boosting the water to the site.

EXHIBIT 4

NEW APPLICATION
ORIGINAL



RECEIVED

FENNEMORE CRAIG
A Professional Corporation
Jay L. Shapiro (No. 014650)
Patrick J. Black (No. 017141)
3003 North Central Avenue
Suite 2600
Phoenix, Arizona 85012
Telephone (602) 916-5000

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AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission
DOCKETED

MAR - 2 2005

DOCKETED BY **CAK**

Attorneys for Circle City Water Company, L.L.C.

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF CIRCLE CITY WATER COMPANY, LLC
FOR AN EXTENSION OF ITS EXISTING
CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR WATER SERVICE

DOCKET NO. W-03510A-05-0146

APPLICATION FOR EXTENSION OF
CERTIFICATE OF CONVENIENCE AND
NECESSITY

Circle City Water Company, L.L.C. ("Applicant"), an Arizona public service corporation, hereby applies for an Order approving an extension of its existing Certificate of Convenience and Necessity ("CC&N") for water service to include an area encompassing a development known as Lake Pleasant 5000 (the "Development"). In support of this Application, Applicant states as follows:

1. Applicant is a public service corporation engaged in providing water for public purposes within portions of Maricopa County, Arizona. The Circle City system in Maricopa County was originally certificated by grant of the Arizona Corporation Commission ("Commission") on August 15, 1958 to Circle City Development Company (Decision No. 31121), transferred to Spencer D. Stewart and May Jan Stewart dba Consolidated Water Co. on January 6, 1964 and later transferred to Consolidated Water Co., LTD by Commission Decision No. 51286 (August 8, 1980). On July 18, 1996, the Commission approved Brooke Water, L.L.C.'s application for approval of the sale of assets and transfer of certificates of convenience and necessity ("CC&N") owned by Consolidated Water Co., LTD, in Decision No. 59754 (July 18, 1996). Brooke Water L.L.C. then transferred its Circle City Division's assets and CC&N to

1 Circle City Water Company, L.L.C. on June 16, 1998 (Decision No. 60972). Applicant currently
2 serves approximately 167 water utility customers. The area served by Applicant contains both
3 residential and commercial properties.

4 2. Harvard Investments, Inc. ("Developer") has requested that Applicant extend
5 water utility service to the Development. A copy of the request for service is attached hereto as
6 Exhibit 1.

7 3. The Development encompasses approximately 5,000 acres and is planned for
8 roughly 10,000 residential dwellings and a mixture of commercial units. The area to be included
9 in Applicant's CC&N (the "Expansion Area") includes 4,882 acres in Maricopa County
10 approximately one mile north of the intersection of state highway 74 and 211th Avenue. A legal
11 description for that portion of the Expansion Area is attached hereto as Exhibit 2. The Expansion
12 Area also includes 160 acres at the northwest corner of 235th Avenue and Joy Ranch Road in
13 Maricopa County. A legal description for that portion of the Expansion Area is attached hereto as
14 Exhibit 3.

15 4. Wastewater utility service will be provided to the Development by a municipality
16 or private utility provider and Developer is in the process of obtaining necessary approvals and
17 agreements for such service.

18 5. Water supply for the Development is anticipated to come from a combination of
19 groundwater wells and Non-Indian Municipal and Industrial Central Arizona Project ("CAP")
20 Subcontract Agreements. It is anticipated that sufficient well capacity will initially provide
21 groundwater to meet the average day demand, but will eventually serve as the primary backup
22 water supply for the Development. Water from the CAP agreements will be provided to
23 eventually meet the total maximum day demand. Hence, the use of CAP water reserves in this
24 manner will compliment groundwater conservation efforts by utilizing a water source allocated to
25 the State of Arizona when the CAP was originally conceived.

26 6. Applicant's management contact is Robert T. Hardcastle, whose business address

1 is 3101 State Road, Bakersfield, California 93308. The telephone number is (661) 633-7526.

2 7. Applicant's operator, certified by the Arizona Department of Environmental
3 Quality, is First National Management, whose business address is P.O. Box 1020, Apache
4 Junction, Arizona 85217. The local telephone number is (480) 677-6080.

5 8. Applicant's attorneys are Fennemore Craig, whose address is 3003 North Central
6 Avenue, Suite 2600, Phoenix, Arizona 85012-2913. The individual attorney responsible for this
7 application is Jay L. Shapiro. Mr. Shapiro's telephone number is (602) 916-5366. All Data
8 Requests or other Requests for Information should be directed to Mr. Robert Hardeastle,
9 with a copy to Mr. Shapiro's attention, on behalf of Circle City Water Company.

10 9. A Certificate of Good Standing for Applicant is attached hereto as Exhibit 4.

11 10. The newly acquired customers in the Expansion Area covered by the application
12 will receive water service subject to Applicant's current rates and charges for utility service,
13 which were approved in Decision No. 55839 (January 1, 1988).

14 11. A service area map indicating Applicant's present water CC&N, and the area
15 requested by this Application, is attached hereto as Exhibit 5.

16 12. Applicant's balance sheet and profit and loss information for the 12-month period
17 ending 2003 is attached hereto as Exhibit 6. An update balance sheet for year-end 2004 will be
18 provided when available.

19 13. A Master Water Design report for the Development is attached hereto as Exhibit 7.

20 14. A copy of Applicant's most recent Annual Report (2003) is attached hereto as
21 Exhibit 8.

22 15. The estimated numbers of residential customers to be served in each of the first
23 five years of water utility service to the areas covered by this Application are as follows:

24 1st Year: 500
25 2nd Year: 1000
26 3rd Year: 2000
4th Year: 3500

5th Year: 5000

16. Applicant's estimated annual operating revenue and operating expenses for each of the first five years of operation in the new area covered by this Application are as follows:

Operating Revenue

1st Year - \$99,320
2nd Year - \$269,728
3rd Year - \$514,485
4th Year - \$888,149
5th Year - \$1,301,837

Operating Expenses

1st Year - \$176,543
2nd Year - \$320,795
3rd Year - \$516,527
4th Year - \$855,970
5th Year - \$1,279,276

17. In order for applicant to provide water service to and within the Development, water distribution facilities must be constructed. The total estimated cost to construct utility facilities necessary for Applicant to serve customers in the Expansion Area is approximately \$42,409,778 through the first five years of development. Applicant proposes to have Developer construct water distribution facilities to serve the public utility water needs of the Development as set forth in the Water Facilities Agreement between the parties, attached hereto as Exhibit 9. The plant cost projections, including service meters, by year for the next five (5) years are as follows:

Plant Cost Projection

1st Year: \$11,328,796.00
2nd Year: \$12,578,796.00
3rd Year: \$22,141,211.00
4th Year: \$36,214,878.00
5th Year: \$42,409,778.00

10900 Decatur Ave
S.W.

77 ma

55438

18. The water facilities needed to serve the Expansion Area will be constructed as needed to provide service to customers. The starting date for the construction of facilities at the Development is approximately late 2005.

19. The construction of the additional utility facilities needed to serve the Expansion Area will be financed by a combination of both refundable Advances in Aid of Construction and

1 non-refundable Contributions in Aid of Construction ("CIAC") pursuant to the terms of the Water
2 Facilities Agreement between Applicant and Developer. Applicant has filed a concurrent
3 application for approval of a proposed Hook-Up Fee Tariff. If approved, all amounts collected by
4 Applicant pursuant to the Hook-Up Fee Tariff will constitute CIAC, and will be used solely for
5 the purposes of constructing facilities to provide additional water production, storage, pressure,
6 and transmission capacity to present and future developments. There is a public need and
7 necessity for public utility water services in the Expansion Area. The Expansion Area is not
8 currently being served by another certificated water utility.

9 20. The Arizona Department of Environmental Quality and Arizona Department of
10 Water Resources will issue certain approvals before service can be provided within the proposed
11 extension area. These approvals will be provided to the Commission once issued by these state
12 agencies.

13 21. Notice of this Application will be given as required by the Commission and proof
14 of publication will be filed with the Commission.

15 22. Applicant will file an application for approval of a franchise agreement with
16 Maricopa County for the proposed extension area, and will submit it to the Commission once it is
17 received. Applicant anticipates filing the franchise agreement with the Commission within 365
18 days of the effective date of the Commission's final decision in this matter.

19 23. An extension of Applicant's CC&N to include the Expansion Area would be
20 consistent with promoting orderly growth in Maricopa County in areas adjacent to Applicant's
21 service territory, and Applicant is in the best position to extend and provide water service to the
22 Development at this time. Additionally, expansion of service will benefit Applicant's existing
23 customers by allowing the cost of providing water service to be spread over a larger customer
24 base to achieve greater economies of scale. As a result, Applicant maintains that this Application
25 is in the public interest and should be granted.

26 24. To the best of its knowledge and belief, Applicant is currently in compliance with

1 all regulatory requirements applicable to its provision of water utility service in Arizona,
2 including all applicable orders, rules and regulations of the Commission, ADEQ and the
3 Maricopa County Environmental Services Division.

4 WHEREFORE, Applicant respectfully requests the following:

5 A. That the Commission proceed to consider and act upon this Application as timely
6 as possible and to schedule a hearing, if necessary, on this matter;

7 B. That upon completion of said hearing that the Commission enter an Order
8 approving the extension of Applicant's current Certificate of Convenience and Necessity to
9 include the additional geographic area requested by this Application as shown in Exhibit 5;

10 C. That the Commission grant such other and further relief as may be appropriate
11 under the circumstances herein.

12 DATED this 2nd day of March, 2005.

13  PENNEMORE CRAIG, P.C.

14 By: _____

15 Jay L. Shapiro
16 Patrick J. Black
17 Attorneys for Circle City Water Company,
L.L.C.

18 ORIGINAL and 13 copies filed this 2 day of March, 2005:

19 Docket Control
20 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

21 COPY delivered this 2 day of March, 2005:

22 Jim Fisher, Executive Consultant
23 Utilities Division
24 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

25 By: 

26 1640789,1/20436.003

Lots 4 and 5 of Section 8, Township 8 North, Range 2 West of the Gila and Salt River Basins and Maricopa, Maricopa County, Arizona.

PARCEL NO. 7:

The South half of the Northwest quarter and

The Southeast quarter of the Northwest quarter and

The South half of Section 6, Township 8 North, Range 2 West of the Gila and Salt River Basins and Maricopa, Maricopa County, Arizona.

EXCEPT Lots 6 and 7.

PARCEL NO. 8:

All of Section 7, Township 8 North, Range 2 West of the Gila and Salt River Basins and Maricopa, Maricopa County, Arizona.

PARCEL NO. 9:

The Northwest quarter of the Northwest quarter of Section 8, Township 8 North, Range 2 West of the Gila and Salt River Basins and Maricopa, Maricopa County, Arizona.

PARCEL NO. 10:

All of Section 17, Township 8 North, Range 2 West of the Gila and Salt River Basins and Maricopa, Maricopa County, Arizona.

EXCEPT the East half of the Northwest quarter and the East half of the Southeast quarter of Section 17, Township 8 North, Range 2 West of the Gila and Salt River Basins and Maricopa, Maricopa County, Arizona.

PARCEL NO. 11:

All of Section 15, Township 8 North, Range 2 West of the Gila and Salt River Basins and Maricopa, Maricopa County, Arizona.

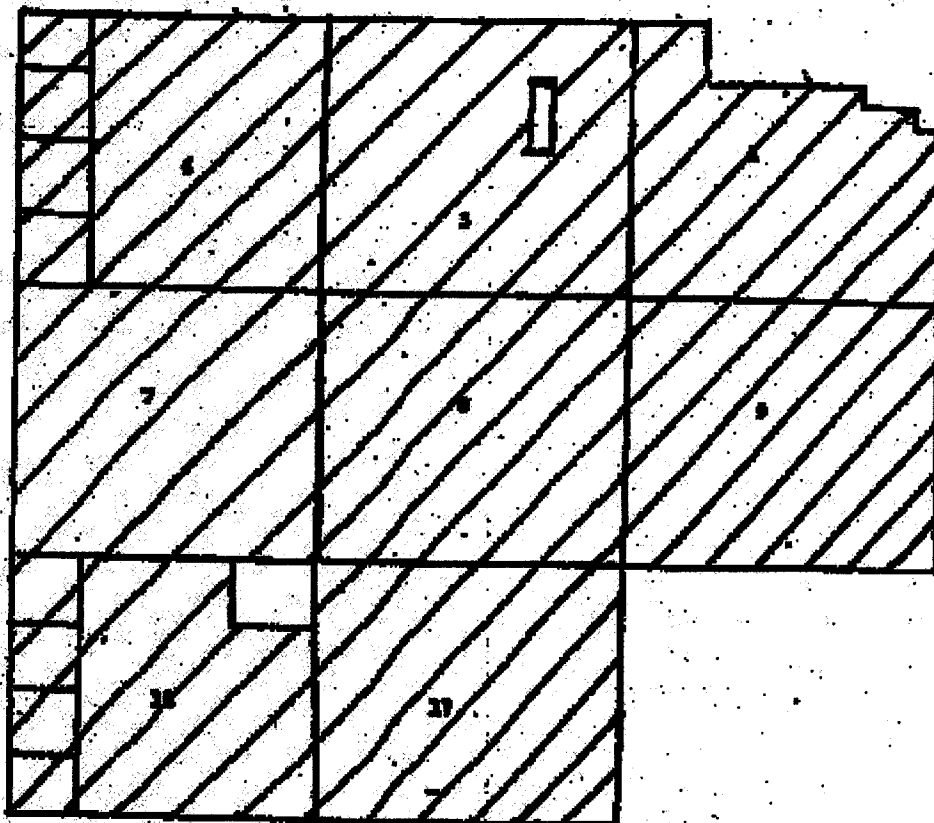
EXCEPT the Northwest quarter of the Northwest quarter thereof.

PARCEL NO. 12:

The South half of Section 5, Township 8 North, Range 2 West of the Gila and Salt River Basins and Maricopa, Maricopa County, Arizona.

PARCEL NO. 13:

Travelling 6 North, Range 2 East of the Hills and Gila River Basin and Montezuma, Maricopa County, Arizona.



EXHIBIT

4

STATE OF ARIZONA



Office of the CORPORATION COMMISSION

CERTIFICATE OF GOOD STANDING

To all to whom these presents shall come, greetings:

I, Brian C. McNeil, Executive Secretary of the Arizona Corporation Commission, do hereby certify that:

*****CIRCLE CITY WATER CO., L.L.C.*****

a domestic limited liability company organized under the laws of the State of Arizona, did organize on the 2nd day of December 1997.

I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said limited liability company is not administratively dissolved for failure to comply with the provisions of A.R.S. sections 29-501 et seq., the Arizona Limited Liability Company Act; and that the said limited liability company has not filed Articles of Termination as of the date of this certificate.

This certificate relates only to the legal existence of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 22nd Day of February, 2005, A. D.



EXECUTIVE SECRETARY

BY: Yvonne M. Luchini

EXHIBIT

7

1.4 Scope of Study

The purpose of this study is to provide a conceptual discussion of the water infrastructure necessary to serve the proposed Lake Pleasant 5,000 development. This study will discuss the potable water facilities required to serve the project. Storage, supply, and demands associated with the proposed development will be addressed. It is important to note, that the onsite distribution lines are not addressed within this study.

2.0 Distribution System

2.1 Pressure Zone Description

The proposed Lake Pleasant 5,000 development is anticipated to consist of five pressure zones. The pressure zone boundaries will be set at approximately 120-foot intervals. The anticipated pressure zones for the site are outlined in Table 1 Lake Pleasant 5,000 Pressure Zones. An exhibit showing the pressure zone boundaries is included in Appendix A Pressure Zone Map.

Table 1 Lake Pleasant 5,000 Pressure Zones

Zone	Low Contour	High Contour
P1	2,080	2,200
P2	2,200	2,320
P3	2,320	2,440
P4	2,440	2,560
P5	2,560	2,680

3.0 Projected System Demands

3.1 General

The Lake Pleasant 5,000 development is anticipated to consist of 10,000 dwelling units. The average day demands for the site were determined based on the projected number of residential dwelling units and the projected amount of commercial acreage. The projected population for the residential area was calculated by multiplying the number of dwelling units, by a population density of 3.2 people per dwelling unit (ppdu). The water demand for the site was calculated by multiplying the projected population by the new residential demand factors from the Arizona Department of Water Resources (ADWR) Third Management Plan for the Phoenix Active Management Area (AMA). These factors consist of an interior water demand of 57 gpd and an exterior water demand of 178 gallons per dwelling unit. In order to maintain these demand factors, it was assumed that the residential turf areas would be limited to 900 ft², as defined by ADWR's Third Management Plan, and that other conservation measures identified in the Third Management Plan would be followed. A commercial demand of 2,000 gallons per acre was also used in these calculations. The demand factors used for this project are summarized in Table 2 Water Demand Factors.

Opinion of Probable Cost for Pipes, Wells, Tanks & Booster Station
10,000 Units

Description	Average Unit Cost	Unit	QTY	Total
Well Drilling	\$ 175,000	EA	11	\$ 1,925,000
Well Equipping (pump & motor, well head and column pipe, discharge piping and valves, etc.)	\$ 110,000	EA	11	\$ 1,210,000
3-Foot Block Wall	\$ 100	LF	9,075	\$ 907,500
Well Site Foundation Pads	\$ 7,250	EA	11	\$ 79,750
Well Electrical	\$ 55,000	EA	11	\$ 605,000
Well Controls	\$ 45,000	EA	11	\$ 495,000
Well Generator	\$ 50,000	EA	2	\$ 100,000
Well(s) Subtotal				\$ 5,322,250
CAP Water Treatment (1.0 MGD per unit)	\$ 500,000	EA	8	\$ 4,000,000
Booster Station (8,650 gpm), Complete with Hydropneumatic Tank and Appurtenances	\$ 473,813	LS	1	\$ 473,813
Transmission Line Complete (24-inch, DIP)	\$ 83	LF	44,000	\$ 3,652,000
CAP Treatment Subtotal				\$ 8,125,813
Tank (1.5 MG)	\$ 432,000	EA	2	\$ 864,000
Tank (2.3 MG)	\$ 580,000	EA	2	\$ 1,160,000
Tank (0.5 MG)	\$ 182,000	EA	1	\$ 182,000
Site Improvements (Grading, pads, excavation)	\$ 426,000	EA	2.5	\$ 1,065,000
3-Foot Block Wall	\$ 175	LF	4,400	\$ 770,000
Tank Site Piping, Valves, Meters, etc.	\$ 315,750	EA	2.5	\$ 789,375
Tank Site Electrical	\$ 312,500	EA	2.5	\$ 781,250
Tank Site Controls	\$ 156,250	EA	2.5	\$ 390,625
Tank Site Generator	\$ 218,750	EA	2.5	\$ 546,875
Tank(s) Subtotal				\$ 6,854,125
Transmission Line Complete (8-inch, DIP)	\$ 40	LF	5,280	\$ 211,200
Transmission Line Complete (24-inch, DIP)	\$ 83	LF	47,000	\$ 3,901,000
Transmission Line Subtotal				\$ 4,112,200
Booster Station (8,650 gpm), Complete with Hydropneumatic Tank and Appurtenances	\$ 473,813	LS	1	\$ 473,813
Booster Station (10,600 gpm), Complete with Hydropneumatic Tank and Appurtenances	\$ 748,125	LS	1	\$ 748,125
Subtotal				\$ 25,348,325
Contingency (15%)				\$ 3,801,949
Bonding				Excluded
Tax (8.3%)				\$ 1,836,341
Adjusted Total				\$ 30,984,615

"Since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others or over the Contractor's method of determining prices, or over the competitive bidding or market conditions, its opinion of probable Project Cost and Construction Cost provided herein are made on the basis of its experience and qualifications and represents its best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but ENGINEER cannot and does not guarantee that proposed, bids or actual Project or Construction Cost will not vary from its opinion of probable cost. If prior to the Bidding or Negotiating Phase, OWNER wishes greater assurance as to Project Cost, it shall employ an independent cost estimator.

*Price excludes engineering, right-of-way acquisition, legal, or other non-construction related costs.

Appendix A Pressure Zone Map

JN: 45-101668

REF

Foreign format file with the ending JPG

COMPANY INFORMATION

Company Name (Business Name)	CIRCLE CITY WATER COMPANY L.L.C.		
Mailing Address	P.O. BOX 82218		
	(Street)		
	BAKERSFIELD	CA	93380
	(City)	(State)	(Zip)
	800-270-6084 or 661-633-7546 800-748-6981		
Telephone No. (Include Area Code)	Fax No. (Include Area Code)	Pager/Cell No. (Include Area Code)	
Email Address	customerservice@ccwater.com or mistiej@brookautilities.com		
Local Office Mailing Address	5079 S. Riverside Drive		
	(Street)		
	Parker	AE	85344
	(City)	(State)	(Zip)
	928-667-3336 928-667-2527		
Local Office Telephone No. (Include Area Code)	Fax No. (Include Area Code)	Pager/Cell No. (Include Area Code)	
Email Address	customerservice@ccwater.com		

MANAGEMENT INFORMATION

Management Contact:	ROBERT T. HARDCASTLE		MANAGING MEMBER	
	(Name)		(Title)	
	P.O. BOX 82218 BAKERSFIELD	CA	93380	
	(Street)	(City)	(State)	(Zip)
	661-633-7526 800-748-6981			
Telephone No. (Include Area Code)	Fax No. (Include Area Code)	Pager/Cell No. (Include Area Code)		
Email Address	rth@brookautilities.com			
On Site Manager:	GARY BROWN			
	(Name)			
	9079 RIVERSIDE DRIVE	PARKER	AE	85344
	(Street)	(City)	(State)	(Zip)
	928-667-3336 928-667-2527			
Telephone No. (Include Area Code)	Fax No. (Include Area Code)	Pager/Cell No. (Include Area Code)		
Email Address	customerservice@ccwater.com			

☒ Please mark this box if the above address(es) have changed or are updated since the last filing.

COMPANY NAME: CIRCLE CITY WATER LLC

CALCULATION OF DEPRECIATION EXPENSE FOR CURRENT YEAR

Acct. No.	DESCRIPTION	Original Cost (1)	Depreciation Percentage (2)	Depreciation Expense (1x2)
301	Organization			
302	Franchisees			
303	Land and Land Rights	7,928	0.00%	-
304	Structures and Improvements	28,011	4.08%	1,142
307	Wells and Springs			
311	Pumping Equipment	13,842	19.58%	2,724
320	Water Treatment Equipment			
330	Distribution Reservoirs and Standpipes			
331	Transmission and Distribution Mains	31,183	4.46%	1,380
333	Services			
334	Meters and Meter Installations	15,820	3.85%	613
335	Hydrants			
336	Backflow Prevention Devices			
339	Other Plant and Misc. Equipment			
340	Office Furniture and Equipment			
341	Transportation Equipment			
343	Tools, Shop and Garage Equipment			
344	Laboratory Equipment			
345	Power Operated Equipment			
346	Communication Equipment	569	1.93%	11
347	Miscellaneous Equipment			
348	Other Tangible Plant			
	TOTALS	97,433	6.03%	5,880

This amount goes on Comparative Statement of Income and Expense
Acct. No. 403.

COMPANY NAME

CIRCLE CITY WATER COMPANY L.L.C.

SUPPLEMENTAL FINANCIAL DATA**Long-Term Debt**

	LOAN #1	LOAN #2	LOAN #3	LOAN #4
Date Issued				
Source of Loan				
ACC Decision No.				
Reason for Loan				
Dollar Amount Issued	\$	\$	\$	\$
Amount Outstanding	\$	\$	\$	\$
Date of Maturity				
Interest Rate				
Current Year Interest	\$	\$	\$	\$
Current Year Principle	\$	\$	\$	\$

Meter Deposit Balance at Test Year End

\$ 3,966

Meter Deposits Refunded During the Test Year

\$ 0

Circle City Water Company, L.L.C.

P.O. Box 82218

Glendale, CA 91201-2218

BANK OF AMERICA
1000 MARKET AVENUE
SAN FRANCISCO, CA 94102

06264



***** One Thousand Eight Hundred Seventy-Two and 13/100 *****

MARICOPA COUNTY TREASURER

DOUG TODD

P.O. BOX 78574

PHOENIX, AZ 85062-8574

PAID
TO THE
ORDER

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CREDIT TO ACCT OF
NAMED PAYEE WITH
OUT PREJUDICE
ABSENCE OF ENDORSE-
MENT GUARANTEED BY
BANK ONE, NA

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54702180

Circle City Water Company, L.L.C.
P.O. Box 82218
Bakersfield, CA 93380-2218

BANK OF AMERICA
1400 TYLER AVENUE
BAKERSFIELD, CA 93311

06524

CHECK NO.

10-21
1999

***** One Thousand Seven Hundred Forty-Nine and 81/100 *****

DATE

AMOUNT

ONE 17 00

81 749 81

**VERIFICATION
AND
SWORN STATEMENT
RESIDENTIAL REVENUE
INTRASTATE REVENUE ONLY**

RECORDED

APR 15 2004

**2 CORPORATION COMMISSION
OFFICE OF UTILITIES**

VERIFICATION

STATE OF CALIFORNIA

I, THE UNDERSIGNED

OF THE

(COUNTY NAME) <u>KERN</u>	
NAME (OWNER OR OFFICIAL) <u>ROBERT T. HANCASTYLE</u>	TITLE <u>MANAGING MEMBER</u>
COMPANY NAME <u>CIRCLE CITY WATER, LLC</u>	

DO SAY THAT THIS ANNUAL UTILITY REPORT TO THE ARIZONA CORPORATION COMMISSION

FOR THE YEAR ENDING

MONTH	DAY	YEAR
<u>12</u>	<u>31</u>	<u>2003</u>

HAS BEEN PREPARED UNDER MY DIRECTION, FROM THE ORIGINAL BOOKS, PAPERS AND RECORDS OF SAID UTILITY; THAT I HAVE CAREFULLY EXAMINED THE SAME, AND DECLARE THE SAME TO BE A COMPLETE AND CORRECT STATEMENT OF BUSINESS AND AFFAIRS OF SAID UTILITY FOR THE PERIOD COVERED BY THIS REPORT IN RESPECT TO EACH AND EVERY MATTER AND THING SET FORTH, TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

SWORN STATEMENT

IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 40, ARTICLE 8, SECTION 40-401.01, ARIZONA REVISED STATUTES, IT IS HEREIN REPORTED THAT THE GROSS OPERATING REVENUE OF SAID UTILITY DERIVED FROM ARIZONA INTRASTATE UTILITY OPERATIONS RECEIVED FROM RESIDENTIAL CUSTOMERS DURING CALENDAR YEAR 2003 WAS:


ARIZONA INTRASTATE GROSS OPERATING REVENUE

\$ 57,367

**(THE AMOUNT IN BOX AT LEFT
INCLUDES \$ 3,547**

IN SALES TAXES BILLED, OR COLLECTED

***RESIDENTIAL REVENUE REPORTED ON THIS PAGE
MUST INCLUDE SALES TAXES BILLED.**



ROBERT T. HANCASTYLE

SUBSCRIBED AND SWORN TO BEFORE ME

A NOTARY PUBLIC IN AND FOR THE COUNTY OF

THIS

9th

DAY OF



NOTARY PUBLIC NAME <u>Lorraine Michelle Keller</u>	
COUNTY NAME <u>Kern County</u>	
MONTH <u>April</u>	YEAR <u>2004</u>

NOW, THEREFORE BE IT RESOLVED the Parties to this Agreement do hereby agree as follows:

Section II: Construction Of On-Site And Off-Site Facilities, Treatment of Costs, Payment of Administrative Costs

1. Developer will construct, or cause to be constructed, on-site distribution facilities sufficient to fully satisfy Developer's requirements for water utility service to the Development by Circle City as further described by this Agreement.
2. Developer will also construct, or cause to be constructed, water infrastructure facilities, including wells, storage tanks, booster pumps, pressure tanks, transmission mains and/or related appurtenances sufficient to fully satisfy Developer's requirements for water utility service to the Development by Circle City as further described by this Agreement. The off-site water infrastructure facilities necessary for Circle City to extend water utility service to the Development are described in the Water Master Plan for Lake Pleasant 5,000 attached hereto as Exhibit III and incorporated herein by this reference.
3. Developer shall determine the financing and timing for construction of the on-site and off-site facilities. The cost of the off-site facilities will constitute a credit against any amounts Developer would be obligated to pay under an Off-Site Hook-Up Fee Tariff (Exhibit II), if such charge is authorized by the ACC following application made by Circle City as requested by Developer. The estimated cost of the on-site distribution facilities described in Exhibit III is Twenty-Four Million, Two Hundred and Sixty Thousand Dollars (\$24,260,000) and shall hereinafter be referred to as the "estimated advance." The estimated cost of the off-site facilities described in Exhibit III is Thirty Million, Seven Hundred and Forty Five Thousand, Ninety-Two Dollars (\$30,745,092) and shall hereinafter be referred to as the "estimated off-site hook-up fee credit." To the extent the off-site facilities costs exceed the estimated off-site hook up fee credit, or, if the ACC does not approve the Off-Site Hook-Up Fee Tariff in a form materially similar to that attached as Exhibit II, Developer will be responsible to finance the costs of any off-site facilities necessary for Circle City to furnish water utility service to the Development and any such amounts will be treated as non-refundable contributions in aid of construction.
4. Developer agrees that the size, design, type and quality of materials used to construct the on-site distribution facilities and off-site water infrastructure facilities (collectively, the on-site and off-site facilities are referred to at times herein as the "Improvements"), as well as the location of those facilities upon and under the ground, shall be approved by Circle City prior to the commencement of construction and that those facilities shall be designed and constructed in accordance with all applicable standards of Circle City, ADEQ, ACC and any other governmental agencies exercising jurisdiction over the design and construction of water utilities systems. The total cost estimates for the Improvements are more fully described in Exhibit IV. All plans and specifications shall be submitted to Circle City prior to submission for approval by any regulatory agencies and Circle City shall have thirty (30) days within which to revise or approve the plans. If Circle City does not provide comments within that thirty-day period, the plans and specifications will be deemed approved by Circle City. Circle City shall have the right to require certain configurations that meet prudent utility practice and general industry practice, to participate in design review and design verification activities, pre- and post-construction inspection requirements, commissioning requirements, test and trials (design validation), and to prescribe certain equipment over other equipment, provided, however, Circle City cannot require changes to the configuration, design or equipment after approval of the plans and specifications.
5. In addition to the estimated advance and estimated off-site hook-up fee credit, Developer shall additionally pay to Circle City an amount sufficient to pay for reasonable administrative costs, including accounting, engineering and inspection services in connection with the construction of the

- e) That Developer comply with any additional terms and conditions as may be set forth in other sections of this Agreement, which may be attached hereto and incorporated by reference for all purposes.

Section IV: Service, Circle City Liability Limitations

1. Notwithstanding any reference to fire protection facilities contained in this Agreement, the Improvements are being constructed by Developer and will be transferred to Circle City for the purpose of providing domestic water service to the Development. However, under certain operating conditions as exclusively determined by Circle City, the Improvements may be used, with the prior written approval of Circle City, to provide limited emergency fire protection service to an official fire

Section 8, Township 6 North, Range 2 West of the 6th and Salt River Basins and Meridian,
Maricopa County, Arizona;

EXCEPT the Northwest quarter of the Northwest quarter thereof.

PARCEL NO. 14:

The West half of Section 8, Township 6 North, Range 2 West of the 6th and Salt River Basins
and Meridian, Maricopa County, Arizona;

EXCEPT the Southeast quarter of the Northwest quarter of said Section 8; and also

EXCEPT the East half of the East half of the Southeast quarter of the Northwest quarter of
said Section 8.

PARCEL NO. 15:

Governmental Lots 1, 2, 3, 4 and 7, Section 8, Township 6 North, Range 2 West of the 6th and
Salt River Basins and Meridian, Maricopa County, Arizona;

Exhibit II

PROPOSED OFF-SITE HOOK-UP FEE TARIFF

no later than within 15 calendar days after receipt of notification from the Company that the Utilities Division of the Arizona Corporation Commission has approved the Main Extension Agreement in accordance with R14-2-406(M).

- b. For those connecting to an existing main that was installed pursuant to a Main Extension Agreement that was approved by the Arizona Corporation Commission –

In the event that the Applicant, Developer or Builder for service is not required to enter into a Main Extension Agreement, the charges hereunder shall be due and payable at the time the meter and service line installation fee is due and payable.

(D) Off-Site Facilities Construction By Developer: Company and Applicant, Developer or Builder may agree to construction of off-site facilities necessary to serve a particular development by Applicant, Developer or Builder, which facilities are then conveyed to Company. In that event, Company shall credit the total cost of such off-site facilities as an off-set to off-site hook-up fees due under this Tariff. If the total cost of the off-site facilities constructed by Applicant, Developer or Builder and conveyed to Company is less than the applicable off-site hook-up fees under this Tariff, Applicant, Developer or Builder shall pay the remaining amount of off-site hook-up fees owed hereunder. If the total cost of the off-site facilities constructed by Applicant, Developer or Builder and conveyed to Company is more than the applicable off-site hook-up fees under this Tariff, Applicant, Developer or Builder shall not be entitled to any refunds.

(E) Failure to Pay Charges: Delinquent Payments: The Company will not be obligated to provide water service to any Developer or , Builder or other applicant for service in the event that the Developer, Builder or other applicant for service has not paid in full all charges hereunder. Under no circumstances will the Company set a meter or otherwise allow service to be established if the entire amount of any payment has not been paid.

(F) Large Subdivision Projects: In the event that the Developer or Builder is engaged in the development of a residential subdivision containing more than 150 lots, the Company may, in its discretion, agree to payment of off-site hook-up fees in installments. Such installments may be based on the residential subdivision development's phasing, and should attempt to equitably apportion the payment of charges hereunder based on the Developer's or Builder's construction schedule and water service requirements.

(G) Off-Site Hook-Up Fees Non-refundable: The amounts collected by the Company pursuant to this Off-Site Hook-Up Fee Tariff shall be non-refundable contributions in aid of construction.

Exhibit III

Water Master Plan for Lake Pleasant 5000

1.0 Introduction

1.1 General Description

The proposed Lake Pleasant 5,000 development covers approximately 4,882 acres within Maricopa County. The proposed development is located within the City of Surprise General Plan area, and is anticipated to consist of approximately 10,000 residential dwelling units and 300 acres of commercial development. The general site location can be seen in Figure 1 Lake Pleasant 5,000 Vicinity Map.

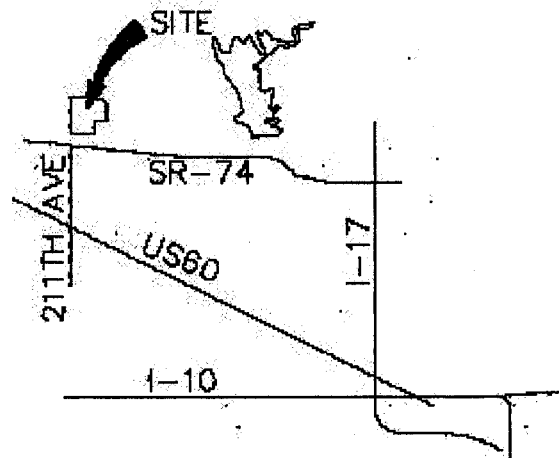


Figure 1 Lake Pleasant 5,000 Vicinity Map

1.2 Project Location

The Lake Pleasant 5,000 development includes sections 5, 6, 7, 8, 9, 17 and 18 as well as a majority portion of Section 4 in Township 6 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona. The site is located north of SR 74, south of the Maricopa County line, and east of the 211th Ave alignment.

1.3 Topographic Conditions

The Lake Pleasant 5000 development consists of undeveloped desert land. The northern and northeast portions of the site are dominated by mountainous terrain, while the eastern third of the site is fairly flat sloping from north to south at approximately a 3% grade.

Table 2 Water Demand Factors

Type	Demand	Unit
Residential Interior	57	gpcd
Residential Exterior	178	gal/du/day
Commercial	2,000	gal/ac/day

Peaking factors for the maximum day and peak hour demands were estimated for the proposed Lake Pleasant 5,000 development. A maximum day peaking factor of 1.8 times the average day demand was assumed. While a peak hour peaking factor of 3.0 times the average day demand was assumed. The projected average day, maximum day, and peak hour demands are shown in Table 3 Lake Pleasant 5,000 Water Demands.

Table 3 Lake Pleasant 5,000 Water Demands

Avg Day		Max Day		Peak Hour	
(gpd)	(gpm)	(gpd)	(gpm)	(gpd)	(gpm)
4,204,000	2,818	7,567,200	5,255	12,612,000	8,758

It is important to note that water demands for the irrigation of the proposed golf courses have not been included within these calculations. The golf courses are planned to be irrigated through reclaimed water. Additionally, changes to the number of dwelling units, projected land uses, and varying individual water usage patterns could result in either an increase or decrease in actual water demand.

3.2 Fire Flow Demand

The proposed Lake Pleasant 5,000 water system will be capable of providing sufficient fire flow throughout the development. The required fire flow will depend on the land use in each area, but is anticipated to range from a minimum of 1,000 gpm within the residential areas up to 3,000 gpm within the commercial areas.

4.0 Water Storage

The volume of water storage to be included within the site has been calculated to provide a reliable water system. Sufficient water storage is projected to be stored on site in order to meet the maximum day water demand. The water storage volume projected for the proposed Lake Pleasant 5,000 development is a total of 7.6 million gallons. It is anticipated that this storage would be provided through two 2.30 million gallon tanks and two 1.50 million gallon tanks. The location of the water storage reservoirs throughout the site will be determined at a future time.

Additionally, one 500,000 gallon storage tank is anticipated to be constructed at the well field. This tank will be used to help reduce cycling of the well pumps and to provide temporary storage before boosting the water to the site.

Table 4 Transmission Main Details

Start	End	Length (ft)	Diam (in)	Start Elev	End Elev
CAP	Circle City Water Co	44,000	24	1,550	1,910
Circle City Water Co	Lake Pleasant 5,000	47,000	24	1,910	2,300

6.0 Opinion of Probable Costs

An engineer's opinion of probable costs has been developed for this project. These costs are based on the engineer's experience with the construction industry, and should be used for planning purposes only. The costs have been developed for the wells, tanks, transmission lines, and booster stations, the onsite distribution lines have not been included as part of this analysis.

Appendices

Appendix A Pressure Zone Map

Appendix B Proposed Transmission Mains

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Foreign format file with the ending JPG

Appendix 1

On August 20, 1996 President Clinton signed into law the Small Business Job Protection Act (H.R. 344) which contained a provision that repealed a portion of the Tax Reform Act of 1986 ("TRA-86") which states that the "gross income of a corporation shall not include any contribution to the capital of the taxpayer". After January 1, 1987, Internal Revenue Code Section 118 treated contributions in aid of construction ("CIAC") as taxable income of electric, gas, water and sewer utility companies. The effect of such provision eliminates the "gross up" of CIAC's which, heretofore, were to be collected in reimbursement of a utility companies taxes payable from the CIAC. Section 1613 (a) of H.R. 3448 returns the IRC Section 118 to its pre-TRA-86 form regarding a utility companies CIAC taxable obligations. In order to satisfy this condition, H.R. 3448 requires certain criteria must be met by utility companies. Circle City Water Company L.L.C. anticipates being able to satisfy the applicable criteria. H.R. 3448 IS RETROACTIVE TO JUNE 12, 1996 FOR ALL CIAC'S.

H.R. 3448 required the IRS to develop specific regulations regarding this matter which were expected to be drafted during 1997. Additionally, the Arizona Corporation Commission has not, as of the date first set forth above, yet addressed the affect of H.R. 3448 by drafting new regulations which are expected to follow the IRS regulations.

Absent regulatory direction to the contrary, Circle City Water Company, L.L.C. does not expect to collect customer "gross up taxes" after June 12, 1996. This policy is subject to final IRS regulations and Arizona statute revisions.

1629002.1/20496.003

EXHIBIT 5

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

RECEIVED

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AZ CORP COMMISSION
DOCKET CONTROL

2580

2 COMMISSIONERS

3 SUSAN BITTER SMITH - Chairman
4 BOB STUMP
5 BOB BURNS
6 DOUG LITTLE
7 TOM FORESE

8 IN THE MATTER OF THE APPLICATION
9 OF CIRCLE CITY WATER COMPANY
10 L.L.C. FOR APPROVAL TO DELETE
11 PORTIONS OF ITS CERTIFICATE OF
12 CONVENIENCE AND NECESSITY AND TO
13 DELETE THE REQUIREMENT TO FILE A
14 RATE CASE PURSUANT TO DECISION
15 NO. 68246.

DOCKET NO. W-03510A-13-0397

MOTION TO DISMISS

16 In accordance with A.A.C. R14-3-109 (C), Lake Pleasant 5000, L.L.C. ("LP5K") hereby
17 moves to dismiss the Application of Circle City Water Company for Approval to Delete Portions
18 of its Certificate of Convenience and Necessity ("CC&N") filed November 19, 2013 by Circle
19 City Water Company ("CCWC").

20 **I. INTRODUCTION**

21 On March 3, 2005, CCWC filed for an extension of its CC&N that would expand its territory
22 by approximately 5,000 acres to include the Lake Pleasant 5000 Development (the
23 "Development") owned by LP5K and controlled by Harvard Investments ("Harvard" or the
24 "Developer") as well as the property known as Warrick 160¹. This extension was based upon a
25 request for service from the Developer to CCWC. The Commission in Decision # 68246 on
26 October 25, 2005 granted the request and added a condition that CCWC must show how the
27 Development benefited current ratepayers in CCWC's next rate case. During this time, CCWC

28 ¹ Warrick 160 is owned by the Maughan Revocable Trust of 2007 who is an intervenor in this case.

W-03510A-05-0100

1 and Harvard entered into a Water Facilities Agreement ("WFA"), which governed how water
2 service would be provided to the Development. Additionally, CCWC and the Developer, among
3 others, entered into an agreement with the Central Arizona Groundwater Replenishment District
4 ("CAGRDR") for Phase I of the Development to receive an assured water supply.

5 During the subsequent years, there was intermittent contact between the Developer and
6 CCWC. Due to well documented economic issues, the development community was put on hold
7 for several years across the country. During this time, the Developer still continued with entitling
8 the property and ensuring already approved entitlements were kept current. In 2013, the
9 Developer had some discussions with CCWC as to whether the project would be developed.
10 After further review, it was determined that the project was indeed viable. In accordance with the
11 WFA, on July 18, 2013 LP5K paid CCWC \$67,782.61 for expenses incurred by CCWC in the
12 creation of the extension area. CCWC filed the instant case on November 19, 2013. The
13 Developer reiterated its request for service on December 11, 2013.²

14 Since the filing of the application, the parties have met numerous times and have
15 exchanged various settlement proposals. Unfortunately, the attempts at settlement have not been
16 successful. Also during this time, Staff has filed direct testimony, in the form of a Staff Report,
17 recommending denial of the application by CCWC.

20 II. NEED FOR SERVICE

21 As seen by the original request for service as well as the renewed request for service in 2013,
22 the Developer needs water service to be provided by CCWC. Since the time of the original
23 decision, the Developer has relied upon the CC&N extension in filings with various government
24 entities including Maricopa County. Deletion of the Development from the CC&N will destroy
25 the economic viability of the Development and cause irreparable harm to LP5K and Harvard.

27 ² The request for service is attached as Exhibit 1.
28

1 It is important to remember that this Development is an extremely large master planned
2 community. At approximately 5000 acres, it is one of the largest in the State. These types of
3 developments take time. A smaller master planned community in the Southeast Valley took over
4 30 years to reach build out. A well laid out plan for development, which includes water service,
5 is necessary for sustainable development and requires certainty in the entitlements of the project.
6 LP5K, and the County, view water service as a necessary entitlement for development. LP5K
7 and Harvard have a vested right to receive service from CCWC. Allowing CCWC to remove the
8 Development after the Developer has relied upon the CC&N causes irreparable harm to the
9 property owner.
10

11 In its Direct Testimony, Staff discusses the need for water service.³ After reviewing all of the
12 information and sending out Data Requests, the determination was made by Staff that water
13 service was needed and recommended that the application be denied.⁴ Additionally, as noted
14 above and in the Staff Report, CCWC received money from LP5K for expenses CCWC incurred
15 for expanding its CC&N. As noted by Staff, "Circle City in cashing the Developer's check took
16 action inconsistent with its current application to delete the Project service area from its CC&N."⁵
17 Allowing CCWC's application to move forward after CCWC received money from LP5K only
18 rewards the utility while harming the Developer.
19

20 III. PUBLIC INTEREST

21 There are several issues of public interest at issue in this case. As discussed above, certainty
22 in Commission orders is paramount to the public interest. Allowing a utility to unilaterally and
23 without any basis in fact to move forward to delete a portion of its CC&N is not in the public
24 interest. If this application were to proceed to a hearing, LP5K and others would be required to
25

26 ³ Staff Direct page 5.

27 ⁴ Id. 5-6.

28 ⁵ Id. at 5.

1 spend time and money to defend its need for water service when Staff has already determined the
2 need exists. Additionally, it is not in the public interest for a utility to enrich itself by accepting
3 money for expenses incurred in expanding its CC&N and then less than five months later, file an
4 application to delete that same area.

5 As noted in the Staff Report, a deletion of this CC&N "could result in the creation of at least
6 one other small, possibly non-financially viable, water company [which] is not consistent with the
7 public interest."⁶ Staff is correct in their assessment. A need for water service exists and if
8 CCWC's application were granted, LP5K would be required to find an entity who would fill that
9 need. There are several factors as it relates to public interest that necessitates a granting of the
10 Motion to Dismiss.
11

12 IV. CONDITIONS ON CCWC FOR THEIR NEXT RATE CASE

13 As mentioned above, CCWC, as a condition in Decision # 68246, is required to show how the
14 existing ratepayers benefited from the installation of new water facilities that were necessary for
15 the extension area in its next rate case. Since there has been no installation of new water
16 facilities, CCWC has asked that the requirement be deleted. Staff, in its testimony, agreed with
17 CCWC regarding the removal of this requirement. LP5K agrees with Staff and CCWC about the
18 removal of the requirement.
19

20 V. CONCLUSION

21 Based upon the findings of Staff contained in their Direct Testimony and the reasons
22 discussed above, LP5K respectfully request the Commission dismiss the application as it relates
23 to the deletion of the CC&N and eliminate the requirement that CCWC show a positive impact on
24 existing customers from the installation of new water facilities.
25
26
27
28

⁶ Id. at 6.

1
2
3
4 RESPECTFULLY SUBMITTED this 10th day of August 2015
5
6

7
8 

9 Garry D. Hays
10 THE LAW OFFICES OF GARRY D. HAYS, PC
11 1702 East Highland Avenue, Suite 204
12 Phoenix, Arizona 85016
13 Counsel for Lake Pleasant 5000, LLC.
14
15
16
17

18 Original and thirteen (13)
19 Copies filed on August 10, 2015 with:

20 Docket Control
21 Arizona Corporation Commission
22 1200 W. Washington Street
Phoenix, AZ 85007

23 COPIES of the foregoing mailed/emailed
24 Delivered on August 10, 2015 to:

25 Janice Alward, Chief Counsel
26 Legal Division
27 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007
28

1 Dwight Nodes
2 Hearing Division
3 ARIZONA CORPORATION COMMISSION
4 1200 West Washington Street
5 Phoenix, AZ 85007

6 Thomas Broderick
7 Utilities Division
8 ARIZONA CORPORATION COMMISSION
9 1200 West Washington Street
10 Phoenix, AZ 85007

11 Robert Hardcastle
12 P.O. Box 82218
13 Bakersfield, California 93380-2218

14 Darin P. Reber
15 7501 E McCormick Parkway
16 Scottsdale, Arizona 85258
17 Counsel for Maughan Revocable Trust of 2007
18 And Rex G. Maughan and Ruth G. Maughan

19 By:  _____
20
21
22
23
24
25
26
27
28

EXHIBIT 1

Lake Pleasant 500, L.L.C.
17700 N. Pacesetter Way, Suite 100
Scottsdale, AZ 85255
480.348.1118

December 11, 2013

VIA EMAIL TO RTH@BROOKEUTILITIES.COM AND REGULAR MAIL

Mr. Robert T. Hardcastle
Brooke Utilities, Inc.
P.O. Box 82218
Bakersfield, California 93380-2218

Re: Circle City Water Co. CC&N

Dear Bob:

I am writing in response to the application Circle City Water Company ("CCWC") filed at the Arizona Corporation Commission ("Commission") that requested a deletion of the Certificate of Convenience and Necessity ("CC&N") covering the Warrick 160 and Lake Pleasant 5000 LLC ("LP5K") property. I was extremely disappointed by your filing. As you are aware, LP5K intends to move forward with the development and is adamantly opposed to the deletion of the CC&N.

This letter will formally serve as a reiteration of the Request for Service letter received by CCWC on September 30, 2004 from LP5K. I advised you, in an email dated July 10, 2013 that LP5K intended to move forward and did not want the CC&N deleted. As you are aware, LP5K has a Water Facilities Agreement ("WFA") with CCWC and has met its contractual obligations under the WFA. In fact, in accordance with Section II, paragraph 5 of the WFA, LP5K paid CCWC \$67,782.61 on July 18, 2013. This payment was made and received when you were fully aware of LP5K's intentions. While you have attempted to get LP5K to sign a termination agreement, I have advised you numerous times that LP5K and its development partners are moving forward with this project.

LP5K will be filing an application for leave to intervene and will explain to the Commission the need for service and the desire to keep the CC&N in place. LP5K is ready and willing to present its case in front of the Commission. If there is any way we can resolve this matter without wasting the Commission's resources, please feel free to call me.

LAKE PLEASANT 5000 L.L.C.,

By: Harvard 5K, L.L.C., its Manager

By: Harvard Investments, Inc., its Manager

By:


Christopher J. Cacheris, Vice President

EXHIBIT 6

ORIGINAL



0000021822

30

MEMORANDUM

RECEIVED

TO: Docket Control
Arizona Corporation Commission

2005 JUN 28 P 4: 23

FROM: Ernest G. Johnson
Director
Utilities Division

AZ CORP COMMISSION
DOCUMENT CONTROL

Date: June 28, 2005

ORIGINAL

RE: STAFF REPORT FOR CIRCLE CITY WATER COMPANY L.L.C.
APPLICATIONS FOR EXTENTION OF CERTIFICATE OF CONVENIENCE
AND NECESSITY AND APPLICATION FOR APPROVAL OF A HOOK-UP
FEE TARIFF (DOCKET NOS. W-03510A-05-0146 AND W-03510A-05-0145)

Attached is the Staff Report for the application of Circle City Water Company, L.L.C. for the extension of their existing Certificate of Convenience and Necessity for water service and for approval of a hook-up fee tariff. Staff recommends approval with conditions.

EGJ:LAJ:red

Originator: Linda A. Jaress

Attachment: Original and 13 Copies

Arizona Corporation Commission

DOCKETED

JUN 28 2005

DOCKETED BY	<i>KV</i>
-------------	-----------

Service List for: Circle City Water Company, L.L.C.
Docket Nos. W-03510A-05-0146 AND W-03510A-05-0145

Mr. Jay L. Shapiro
Mr. Patrick J. Black
Fennemore Craig
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Phoenix, Arizona 85012

Mr. Christopher C. Kempley
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

CIRCLE CITY WATER COMPANY, L.L.C.

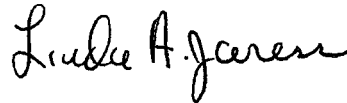
DOCKET NOS. W-03510A-05-0146 AND W-03510A-05-0145

APPLICATION FOR EXTENSION
OF CERTIFICATE OF
CONVENIENCE AND NECESSITY AND
APPROVAL OF A HOOK-UP FEE

JUNE 2005

STAFF ACKNOWLEDGMENT

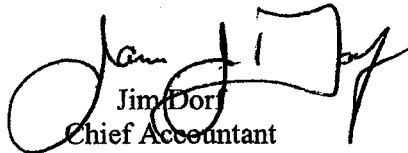
The Staff Report for Circle City Water Company, L.L.C. (Docket Nos. W-03510A-05-0146 and W-03510A-05-0145) was prepared by the Staff members listed below. Linda A. Jaress performed the review and analysis of the Company's application. Marlin Scott, Jr. prepared the engineering report. Jim Dorf performed the analysis regarding the hook-up fee.



Linda A. Jaress
Executive Consultant III



Marlin Scott, Jr.
Utilities Engineer



Jim Dorf
Chief Accountant

EXECUTIVE SUMMARY
CIRCLE CITY WATER COMPANY, L.L.C.
APPLICATION FOR EXTENSION OF CERTIFICATE OF CONVENIENCE AND
NECESSITY AND APPROVAL OF A HOOK-UP FEE TARIFF
DOCKET NOS. W-03510A-05-0146 AND W-03510A-05-0145

Circle City Water Company, L.L.C. ("Circle City" or "Company") filed an application for approval of an extension of its Certificate of Convenience and Necessity ("CC&N") and for approval of a hook-up fee. The Company is a limited liability company providing utility water service to 169 customers in the western portion of the Phoenix metropolitan area in Maricopa County. The proposed extension encompasses 4,888 acres near Lake Pleasant, one mile north of the intersection of State Route 74 and 211th Avenue in Maricopa County. An additional 160-acre extension is requested for the purpose of serving as a well field. *

The existing system is comprised of one well, a 50,000 gallon storage tank, a booster system and a distribution system serving 169 customers. The new system to serve the Lake Pleasant 5000 project in the extension area will ultimately serve 10,000 connections. The cost of the proposed plant facilities is estimated to be approximately \$55.4 million.

The Company has requested approval of a \$3,000 per unit hook-up fee tariff that would result in all of the back-bone facilities being financed by contributions. Staff, however, recommends that the hook-up fee be set at \$1,500 to provide for a more balanced capital structure and prevent an overly subsidized private water company.

Staff recommends approval of the application for the extension of Circle City's CC&N subject to compliance with the following eight conditions.

1. Circle City should file with Docket Control a copy of the Approval to Construct for Phase I of this project within 24 months of a decision in this matter.
2. Circle City should charge its authorized rates and charges in the extension area.
3. The Company should file with Docket Control copies of the developer's Certificate of Assured Water Supply for the requested area, where applicable or when required by statute within 24 months of a decision in this matter.
4. Within 45 days of the effective date of the order issued in this proceeding, the Company should file a Curtailment Plan Tariff in the form attached to this report and docket it as a compliance item in this docket for review and certification by Staff.
5. The hook-up fee tariff should be set at \$1,500 for all new 5/8 x 3/4-inch service connections, and graduated for larger meter sizes in the form as reflected in Staff's Engineering Report.
6. Circle City should file a copy of the county franchise agreement for the extension area with Docket Control within 365 days of the decision in this matter.
7. The Company must demonstrate in its next rate case filing that its existing 169 customers will be positively impacted by the addition of the new water facilities necessary to serve the new CC&N.
8. The Company must also provide a complete summary of its accounting for CAP M&I capital charges in its next rate case.

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Introduction

On March 2, 2005, Circle City Water Company, L.L.C. ("Circle City" or "Company") filed an application for approval of an extension of its Certificate of Convenience and Necessity ("CC&N") and an application for approval of a hook-up fee tariff. On May 6, 2005, Utilities Division Staff ("Staff") found the application for the CC&N extension sufficiently met the requirements of A.A.C. 14-2-402.2 and filed a letter in the docket so indicating. By Procedural Order dated April 4, 2005, the CC&N application was consolidated with the application for approval of a hook-up fee for the purposes of hearing.

The Company is a limited liability company providing utility water service to 169 customers in the western portion of the Phoenix metropolitan area in Maricopa County. Circle City currently operates under rates effective January 1, 1988 as set by Decision No. 55839. According to the Company's 2004 Annual Report to the Arizona Corporation Commission ("Commission"), Circle City generated \$66,372 in revenues and experienced a net loss of \$142,362 during 2004, the largest expense, \$125,824, was related to its accounting for Central Arizona Project fees and charges.

The proposed extension encompasses 4,888 acres near Lake Pleasant, one mile north of the intersection of State Route 74 and 211th Avenue in Maricopa County. This area is approximately 5 miles north of Circle City's current certificated area. An additional 160 acres is being requested to be included in Circle City's certificated area for the purpose of serving as a well field. This area is at the northwest corner of 235th Avenue and Joy Ranch Road and is adjacent to Circle City's current certificated area. The legal descriptions and maps of requested areas are attached as Exhibit 1. Another map, Exhibit 1-A is attached which illustrates more clearly the distance of the extension from Circle City's current certificated area.

Background

Circle City received its CC&N on August 15, 1958 in Decision No. 31121 as Circle City Development Company. The Company was transferred to Consolidated Water Co. in 1964 and then to Brooke Water L.L.C. by Decision No. 59754, dated July 18, 1996. Brooke Water L.L.C. operated it as the Circle City Division. The Circle City Division's assets and CC&N were transferred from Brooke Water L.L.C. to Circle City Water Company, L.L.C. on June 16, 1998 by Decision No. 60972. Circle City is now owned by Brooke Resources L.L.C., the sister company of Brooke Water L.L.C.

The Extension Area Requested

Harvard Investments, Inc. ("Harvard"), a developer, requested that Circle City extend water service to its approximate 5,000 acre planned development to ultimately serve 10,000 residential and commercial units. This extension is five miles northeast of Circle City's certificated area and is not adjacent to it. The large development will be a master planned community known as Lake Pleasant 5000. The application indicated that Harvard was in the

process of obtaining necessary approvals and agreements for wastewater service for the development. Harvard's attorney recently represented that Harvard is still in negotiations with various parties to provide sewer service to the development. An additional 160 acres, adjacent at one point to Circle City's certificated area, is included in the CC&N extension request. This area will serve as a well field and location for a Central Arizona Project water treatment plant. See Exhibit 1 for maps of the current certificated area and the requested areas.

The Developer

Harvard is the United States' development arm of The Hill Companies, a Canadian entity with subsidiaries operating in the broadcasting, insurance, surety and bonding, recycling and real estate industries. Harvard and a sister subsidiary, Harvard Development, own, develop and manage real estate projects in Arizona, Texas and Southern California. Among the Harvard developments in Arizona are Dove Valley in Peoria, The Homestead in Camp Verde, Canada Hills in Oro Valley, Madera Highlands in Green Valley, Ocotillo Ridge Estates in Carefree and La Barranta in Sedona.

Harvard does not currently own the property for which it is requesting service. However, on May 27, 2003, Harvard and the property owners executed an Option to Purchase Agreement. The option period is for 8 years with various option parcels to be exercised and closed during various periods under the agreement. The agreement authorizes Harvard to take actions necessary to obtain entitlements or authorizations for development of the Property. DR

The Water System

The existing system is comprised of one well producing 110 gallons per minute, a 50,000 gallon storage tank, a booster system and a distribution system serving 169 customers. The new system to serve the Lake Pleasant 5000 project in the extension area will ultimately serve 10,000 connections. It will be comprised of 11 wells, an 8.0 million gallon per day Central Arizona Project water treatment plant, storage tank capacity totaling 7.6 million gallons and a distribution system. The cost of the proposed plant facilities is estimated to reach \$55.4 million. Off-site facilities such as water treatment plants, wells, tanks and transmission mains are expected to cost \$30.0 million while on-site facilities such as distribution mains are expected to cost \$25.4 million. Staff concludes that the cost estimates and proposed plant items appear to be reasonable. Attached as Exhibit 2 is Staff's Engineering Report which contains the engineering analysis of the proposed extension.

Financing of the Utility Facilities

The Company has requested approval of a \$3,000 per unit hook-up fee tariff that would result in all of the back-bone facilities being financed by contributions. The on-site facilities would be financed by main extension agreements. Staff is concerned that too much of the plant for the extension would be constructed through contributions resulting in an unbalanced capital structure and an overly subsidized private water company. Staff recommends that the hook-up

fee be set at \$1,500 per unit. See the attached Exhibit 3 for the financial analysis and more comprehensive discussion of the hook-up fee.

Maricopa County Environmental Services Department ("MCESD") Compliance

MCESD has determined that Circle City's system is currently delivering water that meets water quality standards required by the Arizona Administrative Code.

The Company has not received the Certificate of Approval to Construct for the proposed facilities. Staff recommends that the Company file such approvals with Docket Control when received by the Company.

Arizona Department of Water Resources ("ADWR") Compliance

Circle City is located within the Phoenix Active Management Area. ADWR has confirmed that Circle City is in compliance with its reporting and conservation requirements.

Staff recommends that the Company file with Docket Control copies of the developer's Certificate of Assured Water Supply for the requested area, where applicable or when required by statute.

ACC Compliance

According to the Utilities Division Compliance Section, Circle City has no outstanding ACC compliance issues.

Arsenic

The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic maximum allowable contaminant level ("MCL") in drinking water from 50 micrograms per liter (" $\mu\text{g/l}$ ") or parts per billion ("ppb") to 10 $\mu\text{g/l}$. The date for compliance with the new MCL is January 23, 2006. The most recent lab analysis provided by Circle City indicates that the arsenic level in its well is 3 ppm. The arsenic levels in the proposed well field are unknown at this time.

Curtailment Plan Tariff

A Curtailment Plan Tariff ("CPT") is an effective tool used by water companies to manage water shortages due to breakdowns, droughts, or other unforeseen events. Circle City does not have a CPT. Staff recommends that the Company file a CPT in the form attached to the engineering report and that the tariff be docketed within 45 days of the effective date of the order in this proceeding for review and certification by Staff.

Proposed Rates

Circle City will provide water utility service to the extension area under its currently authorized rates and charges.

Franchise

Circle City has not yet applied for a franchise agreement with Maricopa County for the proposed extension area. Staff recommends that Circle City be required to file a copy of the county franchise agreement for the extension area with Docket Control within 365 days of the decision in this matter.

Recommendations

Staff recommends the Commission approve the Circle City application for an extension of its CC&N within portions of Maricopa County subject to compliance with the following conditions:

1. Circle City should with Docket Control a copy of the Approval to Construct for Phase I of this project within 24 months of a decision in this matter.
2. Circle City should charge its authorized rates and charges in the extension area.
3. The Company should file with Docket Control copies of the developer's Certificate of Assured Water Supply for the requested area, where applicable or when required by statute within 24 months of a decision in this matter.
4. Within 45 days of the effective date of the order issued in this proceeding, the Company should file a Curtailment Plan Tariff in the form attached to this report and docket it as a compliance item in this docket for review and certification by Staff.
5. The Hook-up Fee Tariff should be set at \$1,500 for all new 5/8 x 3/4-inch service connections, and graduated for larger meter sizes as reflected in Staff's Engineering Report.
6. Circle City should file a copy of the county franchise agreement for the extension area with Docket Control within 365 days of the decision in this matter.
7. The Company must demonstrate in its next rate case filing that its existing 169 customers will be positively impacted by the addition of the new water facilities necessary to serve the new CC&N.
8. The Company must also provide a complete summary of its accounting for CAP M&I capital charges in its next rate case.


Circle City Water Company, L.L.C.
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Page 5

Staff further recommends that the Commission's Decision granting the requested CC&N extension to Circle City be considered null and void without further order from the Commission should Circle City fail to meet the conditions 1, 3, 4 and 6 listed above within the time specified.

MEMORANDUM

DATE: June 27, 2005

TO: Linda Jaress
Executive Consultant III

FROM: Marlin Scott, Jr. 
Utilities Engineer

RE: Circle City Water Company, LLC
Docket No. W-03510A-05-0146 (CC&N Extension)
Docket No. W-03510A-05-0145 (Hook-up Fee Tariff)

Introduction

Circle City Water Company, LLC ("Company") has submitted applications to extend its Certificate of Convenience and Necessity ("CC&N") and for approval of a hook-up fee tariff. The requested extension areas will add approximately eight square-miles to its existing five square-miles of certificated area. The Company's existing CC&N includes three areas, two areas are located in El Mirage (3-3/4 square-miles and 1/2 square-mile) and one area is Circle City (3/4 square-mile). The Company's service area is approximately 20 miles northwest of El Mirage in Maricopa County.

Capacity

Existing System

The Company's existing system is located in Circle City. According to its 2004 Annual Report, this system has one well producing 110 gallons per minute ("GPM"), a 50,000 gallon storage tank, a booster system and a distribution system serving 169 service connections.

New System

The Company is proposing a new water system to serve the Lake Pleasant 5000 project (one of the extension areas), which is located approximately five miles from the existing system. The proposed system will have a well production capacity totaling 3,520 GPM from 11 wells (the other extension areas for the well field), an 8.0 million gallon per day Central Arizona Project water treatment plant, storage tank capacity totaling 7.6 million gallons and distribution system to serve 10,000 connections.

Staff concludes that the proposed system will have adequate production and storage capacity to serve the CC&N extension areas. The Company plans to construct the proposed system in phases.

Proposed Plant Facilities

The Company is proposing to construct a new water system in the requested area through the use of a Main Extension Agreements ("MXA"). The proposed facilities to be constructed are:

On-Site Facilities:

Tanks	\$ 5,502,500	
Booster stations	\$ 748,125	
Transmission mains	\$ 211,200	
Distribution mains	\$20,000,000	
Subtotal		-----
		\$26,461,825

Off-Site Facilities:

Wells	\$ 5,322,250	
CAP treatment plant	\$ 8,125,813	
0.5 million gallon tank	\$ 1,061,625	
Transmission mains	\$ 3,901,000	
Booster station	\$ 473,813	
Subtotal		-----
		\$18,884,500

On-Site & Off-Site totals	\$45,346,325
Contingency at 15%	\$ 6,801,949
Tax @ 6.3%	\$ 3,285,341

TOTAL: \$55,433,615

Staff concludes that the proposed plant items listed above and the Company's cost estimates totaling \$55,433,615 appear to be reasonable. However, no "used and useful" determinations of the proposed plant facilities were made and no particular treatment should be inferred for rate making or rate base purposes.

Maricopa County Environmental Services Department ("MCESD") Compliance

Compliance Status

MCESD regulates the Company's system under Public Water System I.D. No. 07-112. Based on data submitted by the Company, MCESD has determined that this system is currently delivering

water that meets water quality standards required by Arizona Administrative Code, Title 18, and Chapter 4.

Certificate of Approval to Construct

The Company had not received the Certificate of Approval to Construct ("ATC") for the proposed facilities. Staff recommends that the Company file with Docket Control copies of each ATC when received by the Company.

Arsenic

The U.S. Environmental Protection Agency has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 parts per billion ("ppb") to 10 ppb. The date for compliance with the new MCL is January 23, 2006.

The Company indicated the arsenic level for its existing Well No. 1 is at 3 ppb. Based on this arsenic concentration, the Company is in compliance with the new arsenic MCL of 10 ppb.

According to the Company, the proposed well field is in the same aquifer as the existing Circle City well and therefore, the Company is anticipating that the water quality of the new wells will be similar to the water quality of the existing well. However, in case that the arsenic levels exceed the new MCL standard, the well water will be treated at the CAP water treatment plant.

Arizona Department of Water Resources ("ADWR") Compliance

Compliance Status

The Company is located within the Phoenix Active Management Area ("AMA") and is in compliance with its reporting and conservation requirements.

Certificate of Assured Water Supply

Staff recommends that the Company file with Docket Control copies of the developer's Certificate of Assured Water Supply for the requested area, where applicable or when required by statute.

Arizona Corporation Commission ("ACC") Compliance

A check with the Utilities Division Compliance Section showed no outstanding compliance issues for this Company.

Curtailment Plan Tariff

A Curtailment Plan Tariff ("CPT") is an effective tool to allow a water company to manage its resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable events. Since the Company does not have this type of tariff, this consolidated proceeding provides an opportune time to prepare and file such a tariff.

Staff recommends that the Company file a CPT in the form of the attached, Attachment – CPT. This tariff shall be docketed as a compliance item in this case within 45 days of the effective date of an order issued in this proceeding for review and certification by Staff.

Off-Site Hook-Up Fee ("HUF") Tariff

Staff has reviewed the Company's HUF Tariff and recommends adjustments to the proposed fees. The Company calculated its proposed fee by applying the total off-site capital cost of \$30 million and dividing by the projected new customers of 10,000, resulting in a hook-up fee of \$3,000 for a 5/8 x 3/4-inch meter. Staff finds the estimated total off-site capital cost of \$30 million to be reasonable but recommends an adjusted hook-up fee of \$1,500 for all new 5/8 x 3/4-inch service connections, and graduated for larger meter sizes. (Please see Staff witness Jim Dorf's testimony for the recommended \$1,500 amount.) Staff further recommends approval of the Company's Off-Site Hook-up Fee Tariff as modified by Staff and reflected in Staff's attached Tariff Schedule.

Summary

Conclusions

- A. Staff concludes that the proposed system will have adequate production and storage capacity to serve the CC&N extension areas. The Company plans to construct the proposed system in phases.
- B. Staff concludes that the proposed plant items and the Company's cost estimates totaling \$55,433,615 appear to be reasonable. However, no "used and useful" determinations of the proposed plant facilities were made and no particular treatment should be inferred for rate making or rate base purposes.
- C. MCESD has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.
- D. The Company indicated the arsenic level for its existing Well No. 1 is at 3 ppb. Based on this arsenic concentration, the Company is in compliance with the new arsenic MCL of 10 ppb.
According to the Company, the proposed well field is in the same aquifer as the existing Circle City well and therefore, the Company is anticipating that the water quality of the

new wells will be similar to the water quality of the existing well. However, in case that the arsenic levels exceed the new MCL standard, the well water will be treated at the CAP water treatment plant.

- E. The Company is located within the Phoenix Active Management Area ("AMA") and is in compliance with its reporting and conservation requirements.
- F. A check with the Utilities Division Compliance Section showed no outstanding compliance issues for this Company.

Recommendations

- 1. Staff recommends that the Company file with Docket Control a copy of the ATC for Phase I of this project within 24 months of a decision in this matter.
- 2. Staff recommends that the Company file with Docket Control copies of the developer's Certificate of Assured Water Supply for the requested area, where applicable or when required by statute within 24 months of a decision in this matter.
- 3. Staff recommends that the Company file a CPT in the form of the attached, Attachment – CPT. This tariff shall be docketed as a compliance item in this case within 45 days of the effective date of an order issued in this proceeding for review and certification by Staff.
- 4. Staff recommends approval of the Company's Off-Site Hook-up Fee Tariff as modified by Staff and reflected in Staff's attached Tariff Schedule.

TARIFF SCHEDULE

Attachment - CPT

Utility: Circle City Water Company, LLC
Docket No.: W-03510A-05-0146
Phone No.: _____

Tariff Sheet No.: 1 of 4
Decision No.: _____
Effective: _____

CURTAILMENT PLAN FOR CIRCLE CITY WATER COMPANY, LLC (Template 063004)

ADEQ Public Water System No: 07-112

Circle City Water Company, LLC ("Company") is authorized to curtail water service to all customers within its certificated area under the terms and conditions listed in this tariff.

This curtailment plan shall become part of the Arizona Department of Environmental Quality Emergency Operations Plan for the Company.

The Company shall notify its customers of this new tariff as part of its next regularly scheduled billing after the effective date of the tariff or no later than sixty (60) days after the effective date of the tariff.

The Company shall provide a copy of the curtailment tariff to any customer, upon request.

Stage 1 Exists When:

Company is able to maintain water storage in the system at 100 percent of capacity and there are no known problems with its well production or water storage in the system.

Restrictions: Under Stage 1, Company is deemed to be operating normally and no curtailment is necessary.

Notice Requirements: Under Stage 1, no notice is necessary.

Stage 2 Exists When:

- a. Company's water storage or well production has been less than 80 percent of capacity for at least 48 consecutive hours, and
- b. Company has identified issues such as a steadily declining water table, increased draw down threatening pump operations, or poor water production, creating a reasonable belief the Company will be unable to meet anticipated water demand on a sustained basis.

Restrictions: Under Stage 2, the Company may request the customers to voluntarily employ water conservation measures to reduce water consumption by approximately 50 percent. Outside watering should be limited to essential water, dividing outside watering

TARIFF SCHEDULE

Attachment - CPT

Utility: Circle City Water Company, LLC
Docket No.: W-03510A-05-0146
Phone No.: _____

Tariff Sheet No.: 2 of 4
Decision No.: _____
Effective: _____

on some uniform basis (such as even and odd days) and eliminating outside watering on weekends and holidays.

Notice Requirements: Under Stage 2, the Company is required to notify customers by delivering written notice door to door at each service address, or by United States first class mail to the billing address or, at the Company's option, both. Such notice shall notify the customers of the general nature of the problem and the need to conserve water.

Stage 3 Exists When:

- a. Company's total water storage or well production has been less than 50 percent of capacity for at least 24 consecutive hours, and
- b. Company has identified issues such as a steadily declining water table, increased draw down threatening pump operations, or poor water production, creating a reasonable belief the Company will be unable to meet anticipated water demand on a sustained basis.

Restrictions: Under Stage 3, Company shall request the customers to voluntarily employ water conservation measures to reduce daily consumption by approximately 50 percent. All outside watering should be eliminated, except livestock, and indoor water conservation techniques should be employed whenever possible. Standpipe service shall be suspended.

Notice Requirements:

1. Company is required to notify customers by delivering written notice to each service address, or by United States first class mail to the billing address or, at the Company's option, both. Such Notice shall notify the customers of the general nature of the problem and the need to conserve water.
2. Beginning with Stage 3, Company shall post at least ____ signs showing the curtailment stage. Signs shall be posted at noticeable locations, like at the well sites and at the entrance to major subdivisions served by the Company.
3. Company shall notify the Consumer Services Section of the Utilities Division of the Corporation Commission at least 12 hours prior to entering Stage 3.

Once Stage 3 has been reached, the Company must begin to augment the supply of water by either hauling or through an emergency interconnect with an approved water supply in an attempt to maintain the curtailment at a level no higher than Stage 3 until a permanent solution has been implemented.

TARIFF SCHEDULE

Attachment - CPT

Utility: Circle City Water Company, LLC
Docket No.: W-03510A-05-0146
Phone No.: _____

Tariff Sheet No.: 3 of 4
Decision No.: _____
Effective: _____

Stage 4 Exists When:

- a. Company's total water storage or well production has been less than 25 percent of capacity for at least 12 consecutive hours, and
- b. Company has identified issues such as a steadily declining water table, increased draw down threatening pump operations, or poor water production, creating a reasonable belief the Company will be unable to meet anticipated water demand on a sustained basis.

Restrictions: Under Stage 4, Company shall inform the customers of a **mandatory** restriction to employ water conservation measures to reduce daily consumption. Failure to comply will result in customer disconnection. The following uses of water shall be prohibited:

- ◆ Irrigation of outdoor lawns, trees, shrubs, or any plant life is prohibited
- ◆ Washing of any vehicle is prohibited
- ◆ The use of water for dust control or any outdoor cleaning uses is prohibited
- ◆ The use of drip or misting systems of any kind is prohibited
- ◆ The filling of any swimming pool, spas, fountains or ornamental pools is prohibited
- ◆ The use of construction water is prohibited
- ◆ Restaurant patrons shall be served water only upon request
- ◆ Any other water intensive activity is prohibited

The Company's operation of its standpipe service is prohibited. The addition of new service lines and meter installations is prohibited.

Notice Requirements:

1. Company is required to notify customers by delivering written notice to each service address, or by United States first class mail to the billing address or, at the Company's option, both. Such notice shall notify the customers of the general nature of the problem and the need to conserve water.
2. Company shall post at least _____ signs showing curtailment stage. Signs shall be posted at noticeable locations, like at the well sites and at the entrance to major subdivisions served by the Company.
3. Company shall notify the Consumer Services Section of the Utilities Division of the Corporation Commission at least 12 hours prior to entering Stage 4.

TARIFF SCHEDULE

Attachment - CPT

Utility: Circle City Water Company, LLC

Docket No.: W-03510A-05-0146

Phone No.: _____

Tariff Sheet No.: 4 of 4

Decision No.: _____

Effective: _____

Once Stage 4 has been reached, the Company must augment the supply of water by hauling or through an emergency interconnect from an approved supply or must otherwise provide emergency drinking water for its customers until a permanent solution has been implemented.

Customers who fail to comply with the above restrictions will be given a written notice to end all outdoor use. Failure to comply within two (2) working days of receipt of the notice will result in temporary loss of service until an agreement can be made to end unauthorized use of outdoor water. To restore service, the customer shall be required to pay all authorized reconnection fees. If a customer believes he/she has been disconnected in error, the customer may contact the Commission's Consumer Services Section at 1-800-222-7000 to initiate an investigation.

TARIFF SCHEDULE

Utility: Circle City Water Company, LLC
Docket No.: W-03510A-05-0145
Phone No.: _____

Tariff Sheet No.: 1 of 4
Decision No.: _____
Effective: _____

OFF-SITE HOOK-UP FEE

I. Purpose and Applicability

The purpose of the off-site hook-up fees payable to **Circle City Water Company, LLC** ("the Company") pursuant to this tariff is to equitably apportion the costs of constructing additional off-site facilities to provide water production, delivery, storage and pressure among all new service connections. These charges are applicable to all new service connections established after the effective date of this tariff. The charges are one-time charges and are payable as a condition to Company's establishment of service, as more particularly provided below.

II. Definitions

Unless the context otherwise requires, the definitions set forth in R-14-2-401 of the Arizona Corporation Commission's ("Commission") rules and regulations governing water utilities shall apply interpreting this tariff schedule.

"Applicant" means any party entering into an agreement with Company for the installation of water facilities to serve new service connections, and may include Developers and/or Builder of new residential subdivisions.

"Company" means Circle City Water Company, LLC, an Arizona limited liability company.

"Main Extension Agreement" means any agreement whereby an Applicant, Developer and/or Builder agrees to advance the costs of the installation of water facilities to the Company to serve new service connections, or install water facilities to serve new service connections and transfer ownership of such water facilities to the Company, which agreement shall require the approval of the Commission pursuant to A.A.C. R-14-2-406, and shall have the same meaning as "Water Facilities Agreement" or "Line Extension Agreement."

"Off-site Facilities" means wells, storage tanks and related appurtenances necessary for proper operation, including engineering and design costs. Offsite facilities may also include booster pumps, pressure tanks, transmission mains and related appurtenances necessary for proper operation if these facilities are not for the exclusive use of the applicant and will benefit the entire water system.

"Service Connection" means and includes all service connections for single-family residential or other uses, regardless of meter size.

III. Off-Site Hook-up Fee

For each new service connection, the Company shall collect an off-site hook-up fee derived from the following table:

OFF-SITE HOOK-UP FEE TABLE		
Meter Size	Size Factor	Total Fee
5/8" x 3/4 "	1	\$1,500
3/4"	1.5	\$2,250
1"	2.5	\$3,750
1-1/2 "	5	\$7,500
2"	8	\$12,000
3"	16	\$24,000
4"	25	\$37,500
6" or larger	50	\$75,000

IV. Terms and Conditions

(A) Assessment of One Time Off-Site Hook-up Fee: The off-site hook-up fee may be assessed only once per parcel, service connection, or lot within a subdivision (similar to meter and service line installation charge).

(B) Use of Off-Site Hook-up Fee: Off-site hook-up fees may only be used to pay for capital items of off-site facilities, or for repayment of loans obtained for installation of off-site facilities. Off-site hook-up fees shall not be used for repairs, maintenance, or operational purposes.

(C) Time of Payment:

a. For those requiring a Main Extension Agreement –

In the event that the person or entity that will be constructing improvements ("Applicant", "Developer" or "Builder") is otherwise required to enter into a Main Extension Agreement, whereby the Applicant, Developer or Builder agrees to advance the costs of installing mains, valves, fittings, hydrants and other on-site improvements in order to extend service in accordance with R-14-2-406(B), payment of the fees required hereunder shall be made by the Applicant, Developer or Builder no later than within 15 calendar days after receipt of notification from the Company that the Utilities Division of the Arizona

Corporation Commission has approved the Main Extension Agreement in accordance with R-14-2-406(M).

- b. For those connecting to an existing main that was installed pursuant to a Main Extension Agreement that was approved by the Arizona Corporation Commission –

In the event that the Applicant, Developer or Builder for service is not required to enter into a Main Extension Agreement, the charges hereunder shall be due and payable at the time the meter and service line installation fee is due and payable.

(D) Off-Site Facilities Construction By Developer: Company and Applicant, Developer, or Builder may agree to construction of off-site facilities necessary to serve a particular development by Applicant, Developer or Builder, which facilities are then conveyed to Company. In that event, Company shall credit the total cost of such off-site facilities as an offset to off-site hook-up fees due under this Tariff. If the total cost of the off-site facilities constructed by Applicant, Developer or Builder and conveyed to Company is less than the applicable off-site hook-up fees under this Tariff, Applicant, Developer or Builder shall pay the remaining amount of off-site hook-up fees owed hereunder. If the total cost of the off-site facilities contributed by Applicant, Developer or Builder and conveyed to Company is more than the applicable off-site hook-up fees under this Tariff, Applicant, Developer or Builder shall not be entitled to any refunds.

(E) Failure to Pay Charges; Delinquent Payments: The Company will not be obligated to provide water service to any Developer, Builder or other applicant for service in the event that the Developer, Builder or other applicant for service has not paid in full all charges hereunder. Under no circumstances will the Company set a meter or otherwise allow service to be established if the entire amount of any payment has not been paid.

(F) Large Subdivision Projects: In the event that the Developer or Builder is engaged in the development of a residential subdivision containing more than 150 lots, the Company may, in its discretion, agree to payment of off-site hook-up fees in installments. Such installments may be based on the residential subdivision development's phasing, and should attempt to equitably apportion the payment of charges hereunder based on the Developer's or Builder's construction schedule and water service requirements.

(G) Off-Site Hook-Up Fees Non-refundable: The amounts collected by the Company pursuant to the off-site hook-up fee tariff shall be non-refundable contributions in aid of construction.

(H) Use of Off-Site Hook-Up Fees Received: All funds collected by the Company as off-site hook-up fees shall be deposited into a separate interest bearing trust account and used solely for the purposes of paying for the costs of off-site facilities, including repayment of loans obtained for the installation of off-site facilities that will benefit the entire water system.

(I) Off-Site Hook-up Fee in Addition to On-site Facilities: The off-site hook-up fee shall be in addition to any costs associated with the construction of on-site facilities under a Main Extension Agreement.


(J) Disposition of Excess Funds: After all necessary and desirable off-site facilities are constructed utilizing funds collected pursuant to the off-site hook-up fees, or if the off-site hook-up fee has been terminated by order of the Arizona Corporation Commission, any funds remaining in the trust shall be refunded. The manner of the refund shall be determined by the Commission at the time a refund becomes necessary.

(K) Fire Flow Requirements: In the event the applicant for service has fire flow requirements that require additional facilities beyond those facilities whose costs were included in the off-site hook-up fee, and which are contemplated to be constructed using the proceeds of the off-site hook-up Fee, the Company may require the applicant to install such additional facilities as are required to meet those additional fire flow requirements, as a non-refundable contribution, in addition to the off-site hook-up fee.

MEMORANDUM

DATE: June 25, 2005

TO: Linda Jaress
Executive Consultant III

From: James J. Dorf
Chief Accountant 

RE: Circle City Water Company, LLC
Docket No. W-03510A-0509146 (CC&N Extension)
Docket No. W-03510A-05-0145 (Hook-Up Fee Tariff)

Introduction

Circle City Water Company, LLC ("Circle City" or "Company") has submitted to the Arizona Corporation Commission ("Commission") an application to extend its current Certificate of Convenience and Necessity ("CC&N") and a filing to establish a hook-up fee tariff related to a Lake Pleasant development which will require a new water system to serve approximately 10,000 new connections.

Staff's Engineering Report has determined that the Company's proposed construction cost totaling \$55.4 million (includes approximately \$30 million for off-site capital costs) for this project is reasonable.

Financial Overview

The Company's recent financial performance has produced operating losses of just over \$150,000 for both 2002 and 2003. These losses are primarily due to the Company apparently expensing all of its Central Arizona Project ("CAP") Municipal and Industrial ("M&I") capital charges.¹ The Company's 2003 annual report indicated total assets of \$128,379, total liabilities of \$2,252,041 and Proprietary Capital of a negative \$2,123,662. The Company has also indicated that the Notes Payable to Affiliated Company of \$2,224,977 will be converted to a capital contribution. The Notes Payable were not previously approved by the Commission. A pro forma balance sheet has been prepared by Staff wherein the Notes Payable is converted into Proprietary Capital as of December 31, 2003 (Schedule JJD-1).

¹ The Company has a subcontract (dated December 17, 1999) for 3,932 acre-feet as stated in its Assignment of Rights and Assumption of Obligations of Central Arizona Project Municipal and Industrial Water Service Subcontract.

A review of Circle City's annual report for 2004 indicated that its operating losses continue at just under \$150,000 and it appears that the Company is continuing to expense its CAP M & I charges (\$125,824 in 2004).

Proposed Off-Site Hook-Up Fee Tariff (Docket No. W-03510A-05-0145)

Staff's Engineering Report correctly indicates that Staff recommends that private water companies should not have capital structures that are substantially funded by hook-up or other fees. Staff generally recommends that contributed capital not exceed 25 percent of the assets required to establish service.

The Company has proposed a Hook-Up Fee tariff of \$3,000 for a 5/8 x 3/4-inch meter which is graduated for larger meter sizes. Based on its estimate of an increase of 10,000 customers, the Company would collect the full \$30 million cost of the estimated off-site capital charges. Additionally, this represents 54 percent of the total capital costs of \$55.4 million.

Staff is recommending a \$1,500 hook-up fee for all new 5/8 x 3/4-inch service connections. This will provide approximately \$15 million in capital for the Company's anticipated new service connections or approximately 27 percent of its total anticipated construction costs (\$15 million divided by \$55.4 million). Therefore, Staff also recommends that \$1,500 hook-up fee be considered a non-refundable Contribution in Aid of Construction. This will establish a more balanced capital structure and prevent an overly subsidized private water company.

Proposed CC&N Extension (Docket No. W-02510A-05-0146)

The Company has proposed charging its existing water rates (See Exhibit I) to the customers in the CC&N extension area. These rates have produced operating losses for the last three years. It appears that the Company will continue to produce operating losses to the extent it is expensing its CAP M&I charges. Staff will address the Company's accounting for CAP M & I charges in its next rate case.

Staff Recommendations

Staff recommends that the Company submit an Off-Site Hook-Up Fee Tariff as summarized in the Engineering Report. Staff's recommended Hook-Up Fee Tariff provides for a non-refundable fee of \$1,500 which is graduated for other meter sizes.

Staff further recommends the Company charge its existing rates as summarized in Exhibit I.

Staff further recommends that the Company demonstrate that its existing 169 customers will be positively impacted by the addition of the new water facilities necessary to serve the new CC&N when filing its next rate case application.

The Company shall provide a complete summary of its accounting for CAP M&I capital charges in its next rate case.

PRO FORMA BALANCE SHEET

	12/31/2003	Adjust- ments	Pro Forma
ASSETS			
Cash	0		0
Accounts Receivable	3,776		3,776
Prepayments	62,912		62,912
Current Assets	<u>66,688</u>		<u>66,688</u>
Utility Plant in Service	97,433		97,433
Less Accumulated Depreciation	<u>(35,742)</u>		<u>(35,742)</u>
Fixed Assets	<u>61,691</u>		<u>61,691</u>
TOTAL ASSETS	<u>\$128,379</u>		<u>\$128,379</u>
LIABILITIES AND CAPITAL			
Accounts Payable	2,209		2,209
Notes Payable to Associated Company	2,224,977	(2,224,977)	0
Customer Deposits	3,870		3,870
Accrued Taxes	2,031		2,031
Current Liabilities	<u>2,233,087</u>		<u>8,110</u>
Refundable Meter Deposits	3,986		3,986
Advances in Aid of Construction (AIAC)	13,368		13,368
Contributions in Aid of Construction (CIAC)	6,004		6,004
Less Amortization of CIAC	<u>(4,403)</u>		<u>(4,403)</u>
Deferred Credits	<u>18,955</u>		<u>18,955</u>
TOTAL LIABILITIES & CREDITS	<u>2,252,042</u>		<u>27,065</u>
CAPITAL ACCOUNTS			
Proprietary Capital	<u>(2,123,662)</u>	2,224,977	<u>101,315</u>
TOTAL LIABILITIES & CAPITAL	<u>\$128,380</u>	<u>0</u>	<u>\$128,380</u>

Amount differences due to rounding.

ACC Decision Date:

ACC Docket No.

ACC Decision No.:

ACC Commissioners:

Effective Date of New Rates:

Maricopa County Environmental Service Dept. SDWA Compliance Date:

Owned By:

Owner Address:

Owner City, State, Zip Code:

PWS#:

County of Operations:

Transferor (pursuant to ACC Decision No. 60972)

Transfer of Assets & CC&N Date:

Meter Reading Route Number:

Prior ACC Rate Application Decision and Date:

Ownership Type:

ORIGINAL RECEIVED

2000 NOV -8 P 12:22

AZ CORP COMMISSION
DOCUMENT CONTROL

January 8, 1988
W 020754-98-0074

55839 (unanimous)

Weeks, Jennings, Morgan

January 1, 1988

October 14, 2000

Circle City Water Co., L.L.C.

P.O. Box 82218

Bakersfield, CA 93380-2218

07-112

Maricopa

Brooke Water L.L.C.

July 6, 1998

7033

No. 50232 dated December 7, 1979

Limited Liability Company

Monthly Usage Charges:

5/8" X 3/4" meter	\$	10.75
3/4" meter	\$	22.00
1" meter	\$	35.00
1-1/2" meter	\$	75.00
2" meter	\$	100.00
3" meter	\$	125.00
4" meter	\$	150.00
6" meter	\$	175.00

Gallons Included in Base Rate		2,000
Fire Hydrants	\$	7.00

Commodity Charge:

Per 1,000 gallons	\$	1.95
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Service Line and Meter Installation Charges:

5/8" X 3/4" meter	\$	175.00
3/4" meter	\$	185.00
1" meter	\$	225.00
1-1/2" meter	\$	475.00
2" meter	\$	550.00
3" meter		Cost
4" meter		Cost
6" meter		Cost

APPROVED FOR FILING

DECISION #: 60972

Service Charges:

Establishment	\$	25.00
Establishment (after hours)	\$	25.00
Reconnection	\$	25.00
Reconnection (after hours) Excluding Non-pays	\$	35.00
Security Deposits		A.A.C. R14-2-403 (B) See Deposit Schedule
Deposit Interest (per A.A.C. R14-2-403 (B))		6.00%
Re-establishment (within 12 months)		Months off system X minimum A.A.C. R14-2-403 (D)
Non-sufficient Funds Payment	\$	15.00
Deferred Payment Interest Charge (per month)		1.50%
Meter Re-read (if correct and not error)	\$	10.00
Meter Test	\$	15.00
Late Payment Penalty (per month)		1.50%
Collection of State and Local Taxes		A.A.C. R14-2-608 (D)(5)

MEMORANDUM

TO: Jim Fisher
Executive Consultant II
Utilities Division

FROM: Barb Wells
Information Technology Specialist
Utilities Division

THRU: Del Smith
Engineering Supervisor
Utilities Division

DATE: April 18, 2005

RE: **CIRCLE CITY WATER COMPANY, LLC (DOCKET NO. W-03510A-05-0146)**
AMENDED LEGAL DESCRIPTION

The area requested by Circle City has been plotted using a revised legal description, which has been docketed. This legal description is attached and should be used in place of the original description submitted with the application.

Also attached is a copy of the map for your files.

:bsw





Attachments

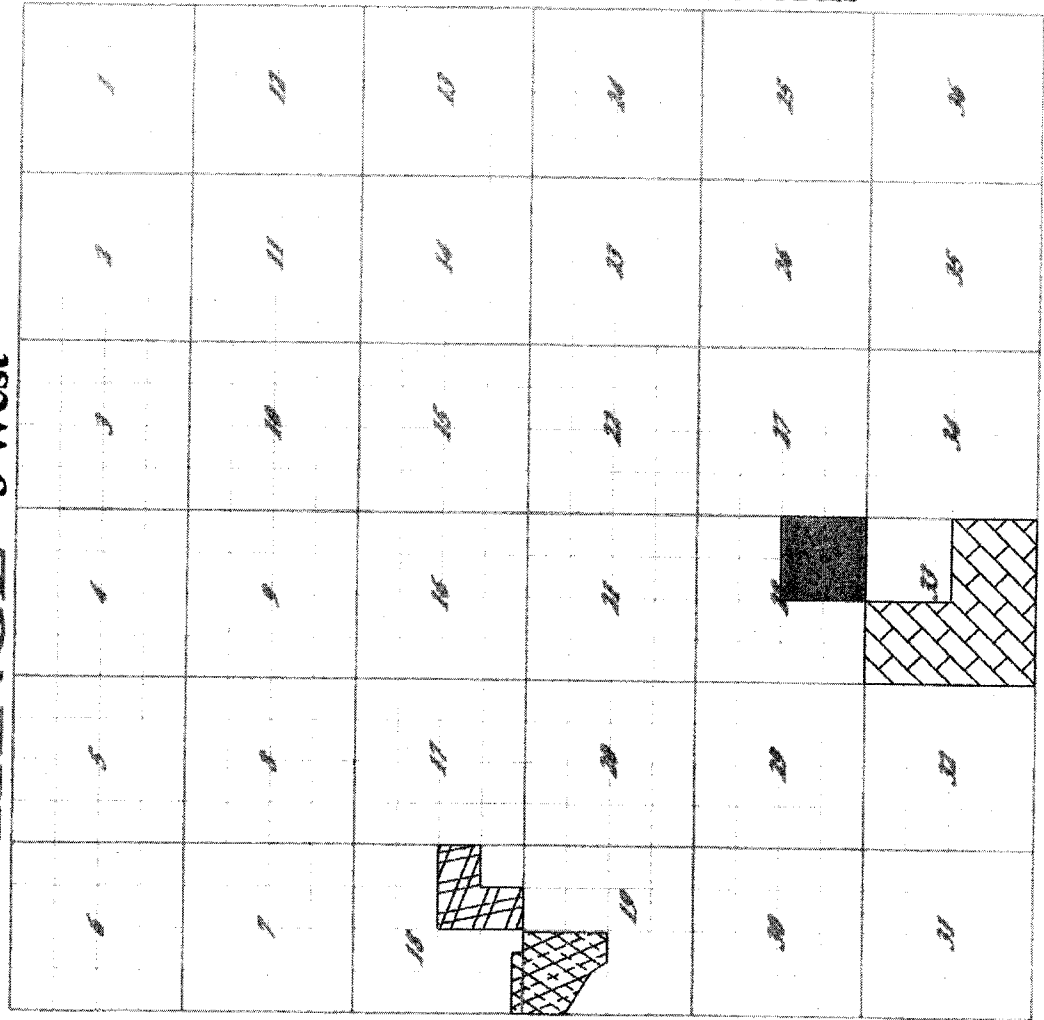
cc: Docket Control
Mr. Jay Shapiro
Deb Person (Hand Carried)
File

COUNTY: Maricopa

RANGE 3 West

TOWNSHIP 6 North

-  W-3510 (2)
Circle City Water Company, LLC
-  W-2164 (2)
Morristown Water Company
-  W-2464 (1)
Puesta del Sol Water Company
-  W-3510
Circle City Water Company, LLC
Docket No. W-3510-05-146
Application for Extension




COUNTY OF Maricopa

RANGE 2 West

TOWNSHIP 6 North

1	2	3	4	5	6
7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30
31	32	33	34	35	36


W-3510
 Circle City Water Company, LLC
 Docket No. W-3510-05-146
 Application for Extension

A circular stamp from the U.S. Department of the Interior, Bureau of Land Management. The outer ring contains the text "REGISTERED LAND SURVEY" at the top and "U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT" at the bottom. The center of the stamp contains the date "4/13/05" and the handwritten text "RANDY'S" and "19214". The stamp is partially obscured by a diagonal line and a date stamp "APR 13 2005".

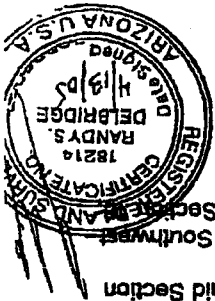
Randy S. Delbridge, President

DESCRIPTION	FOR	TOTAL AREA
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April 13, 2005

BEGINNING at the Southwest corner of said Section 10, being a G.L.O. Brass Cap;
 THENCE North 00 degrees 01 minutes 37 seconds East, along the West line of the Southwest
 quarter of said Section 10 a distance of 2640.12 feet to the West quarter corner of said Section
 18, being a G.L.O. Brass Cap;
 THENCE North 00 degrees 02 minutes 20 seconds West, along the West line of the Northwest
 quarter of said Section 18 a distance of 2539.18 feet to the Northwest corner of said Section 18,
 being a G.L.O. Brass Cap;
 THENCE North 00 degrees 00 minutes 00 seconds East, along the West line of said Section 7,
 a distance of 5284.62 feet to the Northwest corner of said Section 7, being a G.L.O. Brass Cap;
 THENCE North 00 degrees 07 minutes 21 seconds East, along the West line of the Southwest
 quarter of said Section 6 a distance of 2640.71 feet to the West quarter corner of said Section 6,
 being a G.L.O. Brass Cap;
 THENCE North 00 degrees 07 minutes 15 seconds West, along the West line of the Northwest
 quarter of said Section 6 a distance of 2536.20 feet to the Northwest corner of said Section 6,
 being a G.L.O. Brass Cap;
 THENCE South 89 degrees 55 minutes 08 seconds East, along the North line of the Northwest
 quarter of said Section 6 a distance of 2499.21 feet to the North quarter corner of said Section 6,
 being a G.L.O. Brass Cap;
 THENCE South 89 degrees 10 minutes 12 seconds East, along the North line of the Northeast
 quarter of said Section 6 a distance of 488.80 feet to the South quarter corner of Section 31,
 Township 7 North, Range 2 West, being a G.L.O. Brass Cap;
 THENCE North 89 degrees 50 minutes 21 seconds East, continuing along the North line of the
 Northeast quarter of said Section 6 a distance of 2140.66 feet to the Northeast corner of Section
 6, being a G.L.O. Brass Cap;
 THENCE South 89 degrees 53 minutes 38 seconds East, along the North line of the Northwest
 quarter of said Section 5 a distance of 501.45 feet to the Southwest corner of said Section 32,
 Township 7 North, Range 2 West, being a G.L.O. Brass Cap;
 THENCE South 89 degrees 54 minutes 32 seconds East, continuing along the North line of the
 Northwest quarter of said Section 5 a distance of 2148.21 feet to the North quarter corner of
 Section 5, being a G.L.O. Brass Cap;
 THENCE North 89 degrees 07 minutes 14 seconds East, along the North line of the Northeast
 quarter of said Section 5 a distance of 499.67 feet to the South quarter corner of Section 32,
 Township 7 North, Range 2 West, being a G.L.O. Brass Cap;
 THENCE South 89 degrees 43 minutes 38 seconds East, continuing along the North line of the
 Northeast quarter of said Section 5 a distance of 2148.06 feet to the Northeast corner of said
 Section 5, being a G.L.O. Brass Cap.

THENCE North 89 degrees 58 minutes 03 seconds East, along the North line of the Northwest quarter of said Section 4 a distance of 497.01 feet to the Southwest corner of Section 33, Township 7 North, Range 2 West, being a G.L.O. Brass Cap;
THENCE South 89 degrees 57 minutes 12 seconds East, continuing along the North line of the Northwest quarter of said Section 5 a distance of 823.19 feet to the Northeast corner of G.L.O. Lot 4;
THENCE South 00 degrees 10 minutes 24 seconds East, along the East line of said Lot 4 a distance of 1362.71 feet to the Southeast corner of said Lot 4;
THENCE North 89 degrees 58 minutes 56 seconds East 2637.17 feet;
THENCE South 00 degrees 11 minutes 19 seconds East 660.77 feet;
THENCE North 89 degrees 57 minutes 42 seconds East 989.06 feet;
THENCE South 00 degrees 11 minutes 32 seconds East 660.42 feet;
THENCE North 89 degrees 56 minutes 28 seconds East 329.71 feet to the East quarter corner of said Section 4;
THENCE South 00 degrees 11 minutes 37 seconds West, along the East line of the Southeast quarter of said Section 4 a distance of 2641.22 feet to the Southeast corner of said Section 4, being a G.L.O. Brass Cap;
THENCE South 00 degrees 02 minutes 31 seconds West, along the East line of the Northeast quarter of said Section 9 a distance of 2638.28 feet to the East quarter corner of said Section 9, being a G.L.O. Brass Cap;
THENCE South 00 degrees 03 minutes 39 seconds West, along the East line of the Southeast quarter of said Section 9 a distance of 2635.65 feet to the Southeast corner of said Section 9, being a G.L.O. Brass Cap;
THENCE North 89 degrees 55 minutes 38 seconds West, along the South line of the Southeast quarter of said Section 9 a distance of 2636.78 feet to the South quarter corner of Section 9, being a G.L.O. Brass Cap;
THENCE North 89 degrees 54 minutes 43 seconds West, along the South line of the Southwest quarter of said Section 9 a distance of 2639.18 feet to the Southwest corner of Section 9, being a G.L.O. Brass Cap;
THENCE South 00 degrees 10 minutes 03 seconds West, along the East line of the Northeast quarter of said Section 17 a distance of 2637.41 feet to the East quarter corner of said Section 17, being a G.L.O. Brass Cap;
THENCE South 00 degrees 10 minutes 03 seconds West, along the East line of the Southeast quarter of said Section 17 a distance of 2637.41 feet to the Southeast corner of said Section 17, being a G.L.O. Brass Cap;
THENCE North 89 degrees 40 minutes 41 seconds West, along the South line of the Southeast quarter of said Section 17 a distance of 2638.22 feet to the South quarter corner of said Section 17, being a G.L.O. Brass Cap;
THENCE North 89 degrees 54 minutes 18 seconds West, along the South line of the Southwest quarter of said Section 17 a distance of 2640.09 feet to the Southwest corner of Section 17, being a G.L.O. Brass Cap;
THENCE North 89 degrees 57 minutes 37 seconds West, along the South line of the Southeast quarter of said Section 18 a distance of 2640.12 feet to the South quarter corner of said Section 18, being a G.L.O. Brass Cap;
THENCE North 89 degrees 55 minutes 11 seconds West, along the South line of the Southwest quarter of said Section 18 a distance of 2514.54 feet to the Southwest corner of said Section 18, being the Point of Beginning.



THE SOUTHEAST QUARTER OF SECTION 28
LEGAL DESCRIPTION

THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 3
WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY,
ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 28, MONUMENTED BY A
G.L.O. BRASS CAP;

THENCE NORTH 89°59'07" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST
QUARTER OF SAID SECTION 28, ALSO BEING THE BASIS OF BEARING, A
DISTANCE OF 2644.53 FEET TO THE SOUTH QUARTER CORNER OF SECTION 28
MONUMENTED BY A G.L.O. BRASS CAP

THENCE NORTH 00°01'21" WEST ALONG THE NORTH-SOUTH MID-SECTION LINE
OF SAID SECTION 28 A DISTANCE OF 2639.37 FEET TO THE CENTER OF
SECTION OF SAID SECTION 28, MONUMENTED BY A REBAR WITH RLS 9087 CAP;
THENCE NORTH 89°58'37" EAST ALONG THE EAST-WEST MID-SECTION LINE A
DISTANCE OF 2644.57 FEET TO THE EAST QUARTER CORNER OF SECTION 28,
MONUMENTED BY A G.L.O. BRASS CAP;

THENCE SOUTH 00°01'17 EAST ALONG THE EAST LINE OF THE SOUTHEAST
QUARTER OF SAID SECTION 28 A DISTANCE OF 2641.11 FEET TO THE
SOUTHEAST CORNER OF SECTION 28, BEING THE POINT OF BEGINNING;

THE ABOVE DESCRIPTION BASED ON AN A.L.T.A SURVEY BY SOUTHWESTERN
STATES SURVEYING, INC. DATED JUNE 26, 2004, JOB NUMBER 240694.



COUNTY: Maricopa

ATTACHMENT 1-A

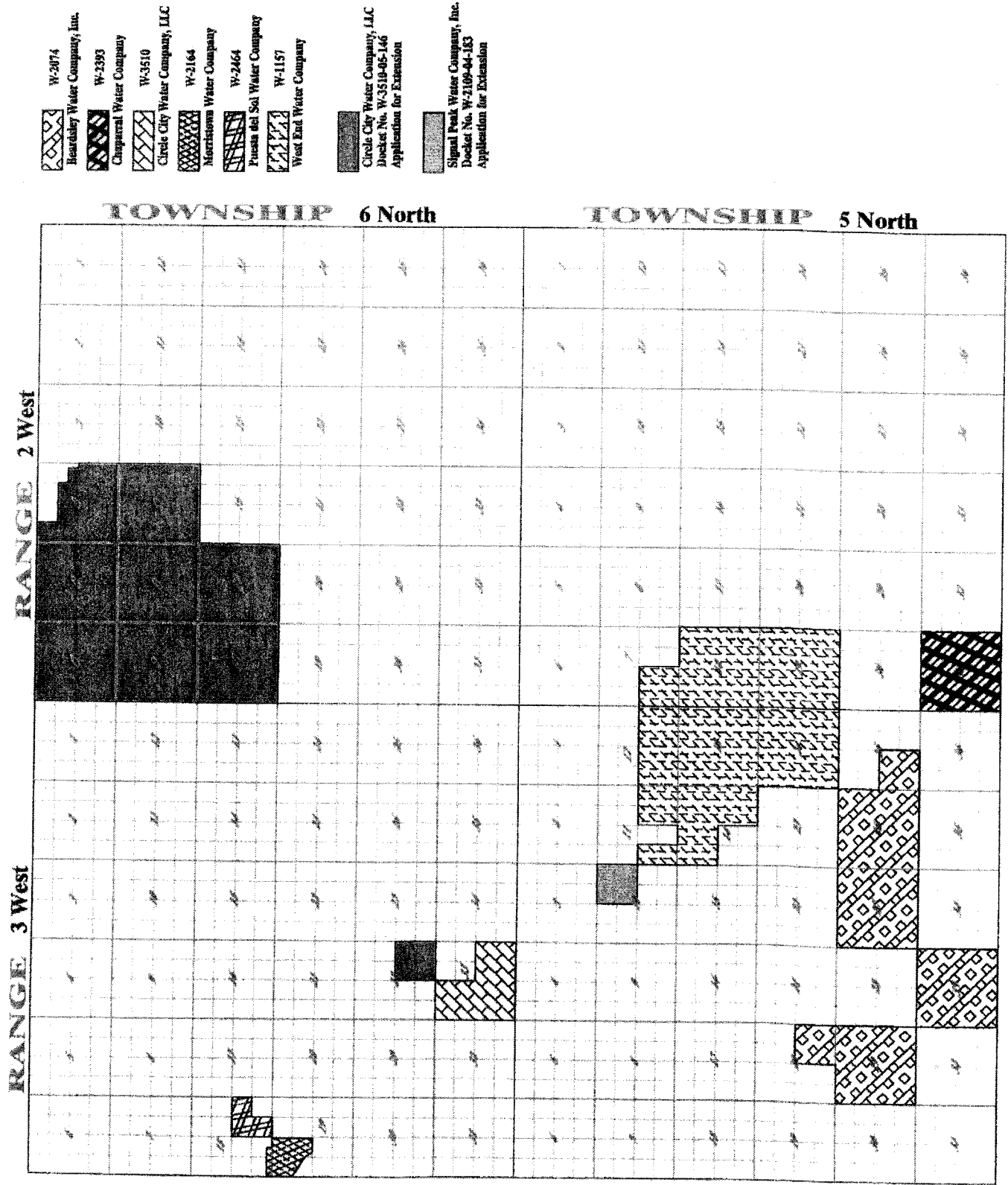


EXHIBIT 7



0000156782

MEMORANDUM RECEIVED

2014 OCT 17 P 1:34

AZ CORP COMMISSION
DOCKET CONTROL

TO: Docket Control

FROM: Steve M. Olea
Director
Utilities Division

Date: October 17, 2014

RE: STAFF REPORT FOR CIRCLE CITY WATER COMPANY L.L.C. -
APPLICATION FOR DELETION OF PORTIONS OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY AND THE REQUIREMENT TO FILE A
RATE APPLICATION PURSUANT TO DECISION NO. 68246 (DOCKET NO. W-
03510A-13-0397)

Attached is the Staff Report for Circle City Water Company L.L.C.'s application for deletion of portions of its existing Certificate of Convenience and Necessity and the requirement to file a rate application pursuant to Decision No. 68246. Staff is recommending denial.

SMO:BNC:tdp\MS

Originator: Blessing Chukwu

ORIGINALArizona Corporation Commission
DOCKETED

OCT 17 2014

DOCKETED BY

Service List for: Circle city Water Company L.L.C.
Docket No. W-03510A-13-0397

Mr. Robert Hardcastle
P.O. Box 82218
Bakersfield, CA 93380-2218

Mr. Gary Hays
1702 E. Highland Ave., Suite 204
Phoenix, Arizona 85016

Mr. Darin P. Reber
7501 E. McCormick Parkway
Scottsdale, Arizona 85258

Ms. Janice Alward
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Steve M. Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

CIRCLE CITY WATER COMPANY L.L.C.

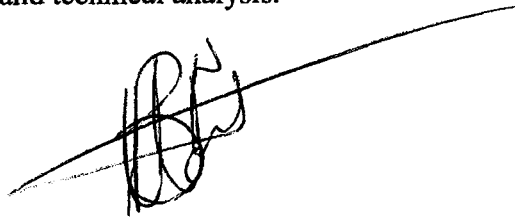
DOCKET NO. W-03510A-13-0397

APPLICATION FOR DELETION OF PORTIONS OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY AND THE REQUIREMENT TO FILE A RATE
APPLICATION PURSUANT TO DECISION NO. 68246

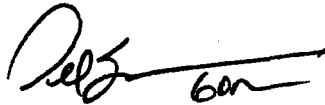
OCTOBER 17, 2014

STAFF ACKNOWLEDGMENT

The Staff Report for Circle city Water Company L.L.C. (Docket No. W-03510A-13-0397) was the responsibility of the Staff members signed below. Blessing Chukwu was responsible for the review and analysis of the Company's application. Katrin Stukov was responsible for the engineering and technical analysis.

A handwritten signature in dark ink, appearing to be 'Blessing Chukwu', with a long horizontal line extending to the right.

Blessing Chukwu
Executive Consultant

A handwritten signature in dark ink, appearing to be 'Katrin Stukov', with a long horizontal line extending to the right.

Katrin Stukov
Utilities Engineer

**EXECUTIVE SUMMARY
CIRCLE CITY WATER COMPANY L.L.C.
DOCKET NO. W-03510A-13-0397**

On November 19, 2013, Circle City Water Company L.L.C. ("Circle City" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval to delete approximately 5,042 acres of its Certificate of Convenience and Necessity ("CC&N") as extended by Decision No. 68246 and to delete the Decision's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

Circle City is an Arizona Corporation, in good standing with the Commission's Corporation Division, and engaged in providing water service to approximately 179 customers in portions of Maricopa County, Arizona.

Staff recommends the Commission deny Circle City's application for deletion of a portion of its CC&N within portions of Maricopa County, Arizona, to provide water service. Staff also recommends that the Commission eliminate the requirement that Circle City comply with Decision No. 68246's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Staff further recommends that the Company file with Docket Control, as a compliance item in this Docket by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/or community water systems.

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INTRODUCTION

On November 19, 2013, Circle City Water Company L.L.C. ("Circle City" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval to delete portions of its Certificate of Convenience and Necessity ("CC&N") as extended by Decision No. 68246 and to delete the Decision's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

On December 11, 2013, and January 9, 2014, Lake Pleasant 5000, L.L.C. ("LP5K") and Rex G. Maughan and Ruth G. Maughan, Trustees of the Maughan Revocable Trust of 2007 ("MRT"), respectively, filed an Application to intervene.

On December 13, 2013, and March 12, 2014, by Procedural Order, LP5K and MRT were granted intervention, respectively.

In April 2014, the Company provided additional documentation to support its relief requested, pursuant to data request issued by Commission Division Staff ("Staff"). Likewise, LP5K also provided additional information.

BACKGROUND

Circle City is an Arizona Corporation, in good standing with the Commission's Corporation Division, and engaged in providing water service to approximately 179 customers in portions of Maricopa County, Arizona. According to Commission records, the Commission approved the original CC&N for Circle City in Decision No. 31121 (August 15, 1958) as Circle City Development Company. Since then, the assets and CC&N have been transferred a few times. Circle City is now owned by Brooke Resources L.L.C.

Circle City provides water services to both residential and commercial customers. The Company's CC&N covers approximately 8,300 acres (approximately 13 square miles) and is located in the western portion of the Phoenix Metropolitan Area, in Maricopa County.

By this application, Circle City is seeking Commission authority to delete approximately 5,042 acres of its CC&N, as extended by Decision No. 68246 and to delete the Decision's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

THE REQUESTED CC&N DELETION AREA

The Company's CC&N is approximately 13.2 square miles in size and is located in the western portion of Phoenix Metropolitan Area, in Maricopa County. Precisely, in Section 33 in Township 06 North, Range 03 West (referred to herein as the "Circle City's initial CC&N"), Section 28 in Township 06 North, Range 03 West (referred to herein as the "Warrick 160") and Sections 5,

6, 7, 8, 9, 17 and 18 as well as a majority portion of Section 4 in Township 07 North, Range 02 West (referred to herein as the "Lake Pleasant 5000"). Lake Pleasant 5000 CC&N area consists of approximately 4,882 acre planned development with approximately 10,000 residential units and 300 acres of commercial development and is located approximately five miles northeast of Circle City's initial CC&N area. Warrick 160 CC&N area consists of approximately 160 acres of land for 78 residential lots. Warrick 160 is located northeast of Circle City's initial CC&N and is adjacent to it at one point. Decision No. 68246, issued on October 25, 2005, granted Circle City's request to extend its CC&N to include Warrick 160 and Lake Pleasant 5000 areas ("the Project"). The subject CC&N deletion application would remove from Circle City's CC&N all of the Warrick 160 and the Lake Pleasant 5000 areas. The proposed deletion areas include approximately 5,000 acres. According to Circle City, the Company is not serving any customers in the Warrick 160 and the Lake Pleasant 5000 areas and none of the intended water system's plant necessary to serve the proposed deletion areas has been constructed.¹ *

CIRCLE CITY POSITION

Decision No. 68246 granted Circle City's request to extend its CC&N to serve the Project.

In its Application to delete CC&N as extended in Decision No. 68246 and its Motion to delete the requirement in Decision No. 68246 related to a future rate application, Circle City states that it first received an expression of interest to develop the Project known as the Lake Pleasant 5000 Project from Harvard Investments, Inc. ("Harvard" or the "Developer") in 2004.

In 2005, Circle City and Harvard executed the Water Facilities Agreement ("WFA") which provided water service to Warrick 160 and Lake Pleasant 5000. Subsequently, according to Circle City, in November 2007, Circle City and the other ownership partners of Phase I including the Developer, known as Warrick 160 LLC for the purposes of this portion of the Project, and the Central Arizona Groundwater Replenishment District ("CAGR") executed the Agreement and Notice of Municipal Provider Reporting Requirements for Warrick Property Regarding Membership in the Central Arizona Groundwater Replenishment District (the "CAGR Agreement"). Circle City states that as a result of the Agreement, the Developer became a Member Lands in the CAGR and met the requirements for an assured water supply for Phase I of the Project in the Active Management Area ("AMA") of the Arizona Department of Water Resources ("ADWR"). In addition, Circle City received an approval to construct ("ATC") Phase I of the Project in June, 2008.

On March 2, 2005, Circle City filed an application for an extension of its CC&N with the Commission to provide public water service to the Project, which was granted in Decision No. 68246. The Project was to consist of two sections called Phase I and Phase II. Phase I related to 160 acres of land for 78 residential lots located northeast and contiguous to Circle City's existing CC&N also known as the Warrick 160 portion. Phase II related to 4,882 acres located approximately five miles north of Circle City's existing CC&N that would be connected by a series of newly developed main extensions, 7.6 million gallons of water storage, Central Arizona Project ("CAP") treatment plant and related appurtenances. Circle City states that the Project was planned

¹ See Company's responses to Staff's First Data Requests.

for 1000 dwelling units having peak day demand of more than 5,255 gallons per minute. The engineers cost estimate for the combined cost of water infrastructure and onsite distribution for the Project exceeded \$55,000,000.

Circle City states that it now desires to delete the area from its CC&N because "the Project never got developed beyond the initial entitlements phase more than 8 years later, there is no plan to develop or construct the Project." Circle City alleges that in prior interaction it had with the Developer in an April 12, 2013 phone call, the Developer described the Project as "not viable" and that the Developer had "indicated that it could be as long as 10 more years before the area around the Project might develop." Circle City further alleged that the Developer agreed with the Company to unwind all regulatory and contractual arrangements with Circle City related to the Project including the deletion of the extended CC&N; termination of the Water Facilities Agreement; cancellation as a Member Lands with CAGRDL for Warrick 160, and cancellation of the Maricopa County Franchise Agreement.

The Company contends that several weeks after significant "unwinding" work had been completed (although it never identified what this significant unwinding work consisted of), the Developer apparently recognized that "unwinding" the Project arrangements should include the approval of the other Project partners as well. As a result, the Developer requested on May 3, 2013 Circle City to "hold" on the "extinguishing/termination" of the unwinding arrangements until a Partners' "meeting was convened that confirmed and approved the Developer's previous "unwinding" decision." According to Circle City, in response to the Developer's request, it expressed astonishment at the Developer's "hold" instruction and advised the Developer that it was "directing its counsel to proceed" based on their prior discussions that "the Project was not viable and that unwinding the Project was the only reasonable thing to do."

On July 18, 2013, LP5K paid Circle City \$67,782.61 for legal and engineering expenses incurred for the extension area, in accordance with the WFA. Circle City does not deny that it cashed this check. According to Circle City's response to Staff's Second Set of Data Requests, the check was for "expenses related to development of the project." On August 7, 2013, at the suggestion of Circle City, a meeting was arranged with the Developer to discuss the most current status of the Project. According to Circle City the Developer stated that its partners did not want to delete the CC&N approved in Decision No. 68246 or terminate their membership with CAGRDL.

Nonetheless, Circle City proceeded to file the instant CC&N deletion application. Attachment B contains a map which shows the portion of Maricopa County at issue.

MAUGHAN REVOCABLE TRUST ("MRT"), LAKE PLEASANT 5000, L.L.C. ("LP5K") POSITION

The areas Circle City proposes to delete (Warrick 160 and the Lake Pleasant 5000) are owned by MRT, LP5K, and their development partners. MRT and LP5K were granted intervention in this matter. The owners entered into a WFA with Circle City. In July of 2013, as stated above, the owners paid \$67,782.61 to Circle City in accordance with the WFA. The owners do not want

their properties deleted and have advised Circle City a need for service exists. The owners reiterated the request for service in a letter dated December 11, 2013.

THE WATER SYSTEM

The new water system needed to serve the proposed CC&N deletion area was contemplated to be constructed in two phases² and financed pursuant to the WFA between Circle City and the developer. According to the Company's responses to Staff's First Data Requests, Circle City does not serve any customers in the CC&N extension granted in Decision No.68246 and none of the intended water system's plant necessary to serve the Warrick 160 and the Lake Pleasant 5000 areas has been constructed.

Attachment A is Staff's Engineering Report which describes the current water system. The report includes the findings that Circle City is in compliance with Maricopa County Environmental Services Department ("MCESD") and with the Commission decisions. The Company's water system is not in compliance with Arizona Department of Water Resources ("ADWR") requirements as the Company failed to file a System Water Plan.

The report indicates that Circle City's water system has adequate production and storage capacities to serve the present customer base and reasonable growth in the Company's original certificated area.

Staff recommends that the Company file with Docket Control, as a compliance item in this docket, by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/or community water systems.

SPECIAL SERVICE TARIFFS

Circle City has approved Curtailment Tariff, Backflow Prevention Tariff, and Offsite Hookup Fee Tariff for water on file.

STAFF ANALYSIS OF THE CC&N DELETION APPLICATION

In any CC&N deletion proceeding, Staff is charged with reviewing the evidence submitted by an applicant to make a recommendation to the Commission based upon the facts contained in the application and any responses to the application by interested and/or affected parties. The issues in a deletion proceeding relate to whether the applicant continues to be fit and proper with the financial, managerial and technical capabilities to serve the public. In this case, additional circumstances are presented related to the Project's viability and Circle City's continued responsibility to serve the area as the CC&N holder.

During its review, Staff met with Circle City and with the owners of Warrick 160 and the Lake Pleasant 5000 and also issued data requests to both parties.

² Phase I of the Project intended to be in the Warrick 160 area

Staff's review of the information received indicates that the owners and/or developers of the proposed deletion area want Circle City to provide water service to their development.³ The statements made regarding unwinding the Project were apparently not based upon input by all of the partners to the Project. Once all of the Partners were consulted, it became clear that they wanted to proceed with the Project in the extension area. While no timeframe has been presented, steps have been taken by the Developers to begin the Project. On July 18, 2013, LP5K paid Circle City \$67,782.61 for legal and engineering expenses incurred for the extension area, in accordance with the WFA. Circle City received and cashed Check No. 786, approximately four (4) months before filing the instant application. In addition, the check was received and cashed on August 1, 2013, during the time that the Developers and Circle City were engaged in discussions regarding the Project. Significantly, after receiving and cashing the check, Circle City arranged a meeting with the Developers to discuss the current status of the Project. The fact that Circle City cashed the Developer's check is an indication that it intended to proceed with the Project. In response to Staff's Second Set of Data Requests⁴, Circle City itself acknowledged that the check for \$67,782.61 was for "payment of contractual legal and engineering expenses related to development of the project in accordance with the 204 WFA." After cashing the check, it called a status meeting in August, 2013, during which it was once again informed that the Developer's partners wanted to proceed with the project.

Circle City also apparently relies upon language in Decision No. 68246 which provided that if Circle City failed to meet certain conditions in the Order which involved filing certain documentation within 24 months of the Order, the decision would be deemed null and void without further Order of the Commission. Two of the documents it was to file were (1) a copy of the Certificate of Approval to Construct for Phase I, and (2) a copy of the Developer's Assured Water Supply for Phase I of the Project.⁵ While these documents were not filed, Circle City acknowledges in its filing, that it had obtained both documents. Given this, the Company should not be allowed to benefit at the expense of the Developers from its own failure to file the documents with Docket Control as required by Decision No. 68246.

There is also the issue of Decision No. 68246 requirement for the Company to demonstrate in its next rate case filing (scheduled for 2014) that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Neither Phase I nor II of the Project has been built. Staff agrees with Circle City that this requirement is no longer necessary and should be deleted.

LP5K and its development partners need water service, as evidenced by Attachment C. Circle City in cashing the Developer's check took action inconsistent with its current application to delete the Project service area from its CC&N. It noted in response to Staff's Second Set of Data Requests, that the check was for expenses related to development of the Project. Then, at the

³ See Attachment C, Letter from LP5K to Mr. Robert Hardcastle of Circle City.

⁴ April 18, 2014 response by Robert T. Hardcastle to Staff Second Set of Data Requests.

⁵ It should be pointed out that the ATC for Phase I has since expired. However, the Company can resubmit the ATC application at any time.

August 2013 meeting Circle City called, Circle City again was told by the Developer that its partners desired to proceed with the Project.

Further, there are no other water providers serving areas contiguous to or in close proximity to the proposed deletion area. Staff believes that in general it is more economical for an area to be served by one water provider than several contiguous, small water providers. Staff has no reason to believe that the situation in this case is any different in that the deletion proposed by Circle City could result in the creation of at least one other small, possibly non-financially viable, water company. Such a result is not consistent with the public interest.


Staff recommends denial of Circle City's request to delete the portions of its CC&N extended by Decision No. 68246. Staff also recommends that the Commission eliminate the requirement that Circle City comply with Decision No. 68246's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

RECOMMENDATIONS

Staff recommends the Commission deny Circle City's application for deletion of a portion of its CC&N within portions of Maricopa County, Arizona, to provide water service. Staff also recommends that the Commission eliminate the requirement that Circle City comply with Decision No. 68246's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Staff further recommends that the Company file with Docket Control, as a compliance item in this Docket by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/or community water systems.

MEMORANDUM

TO: Blessing Chukwu
Executive Consultant III

FROM: Katrin Stukov 
Utilities Engineer

DATE: September 5, 2014

RE: Application of Circle City Water Company L.L.C. for approval to delete portions of its Certificate of Convenience and Necessity and the requirement to file a rate application pursuant to Decision No. 68246 (Docket No.W-03510A-13-0397).

Introduction

On November 19, 2013, Circle City Water Company L.L.C. ("Circle City" or "Company") filed with the Arizona Corporation Commission ("ACC" or "Commission") an application requesting approval to delete portions of its Certificate of Convenience and Necessity ("CC&N") as extended by Decision No. 68246 and to delete the requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

Circle City's service area is located in the western portion of the Phoenix metropolitan area in Maricopa County. The Company's CC&N area covers approximately 8,300 acres (roughly 13 square miles).

The Company's CC&N extension granted in Decision No.68246 includes two separate areas intended for a project known as Lake Pleasant 5000 ("Project"). The first area covers 4,882 acres and is five miles northeast of Circle City's original certificated area¹. The second area, known as the Warrick 160, covers 160 acres and is adjacent at one point to Circle City's original certificated area.

The new water system needed to serve the Project was contemplated to be constructed in two phases² and financed pursuant to a Water Facility Agreement between Circle City and the developer of the Project. According to the Company's responses to Staff's First Data Requests, Circle City does not serve any customers in the CC&N extension granted in Decision No.68246 and none of the intended water system's plant necessary to serve the Project has been constructed.

¹ Circle City's certificated area prior to the CC&N extension granted in Decision No.68246.

² Phase I of the Project intended to be in the Warrick 160 area

Circle City Water System

Operation

According to the Company's 2012 Annual Report, the Circle City water system consists of one well, producing 75 gallons per minute ("GPM"), one 50,000 gallon storage tanks, three 25,000 gallon storage tanks, a booster system and a distribution system serving 179 customers in the Company's original certificated area.

Capacity

Based on the water use data obtained from the Company's 2012 Annual Report, Staff concludes that the Company's well production capacity of 75 GPM and storage capacity of 125,000 gallons are adequate to serve the present customer base and reasonable growth in the Company's original certificated area.

Maricopa County Environmental Services Department ("MCESD") Compliance

According to MCESD compliance status report, dated December 6, 2013, MCESD has determined that the Company's water system has no major deficiencies and is currently delivering water that meets water quality standards required by 40 C.F.R. 141 (National Primary Drinking Water Regulations) and Arizona Administrative Code, Title 18, Chapter 4.

Arizona Department of Water Resources ("ADWR") Compliance

The Company is located in the Phoenix Active Management Area. According to an ADWR compliance status report, dated September 5, 2014, ADWR has determined that the Company's water system is not in compliance with ADWR requirements as the Company failed to file a System Water Plan.

ACC Compliance

On September 5, 2014, the Utilities Division Compliance Section noted that a check of the compliance database indicates that there are no delinquencies for Circle City. Therefore, Circle City is in compliance with the ACC Compliance Database at this time.

Curtailment Tariff

The Company has an approved Curtailment Tariff.

Backflow Prevention Tariff

The Company has an approved Backflow Prevention Tariff.

Conclusions/Recommendations

1. The Circle City water system has adequate well production and storage capacity to serve its present customer base and reasonable growth.
2. The Company is in compliance with MCESD regulations.
3. Circle City is in compliance with the ACC Compliance Database at this time.
4. Staff recommends that the Company file with Docket Control, as a compliance item in this docket by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/ or community water systems.

MEMORANDUM

TO: Blessing Chukwu
Executive Consultant III
Utilities Division

FROM: Lori H. Miller *lhm*
GIS Specialist
Utilities Division

THRU: Del Smith *DS*
Engineering Supervisor
Utilities Division

DATE: December 12, 2013

RE: **CIRCLE CITY WATER COMPANY, LLC (DOCKET NO. W-03510A-13-0397)**

The area requested by Circle City for a partial deletion has been plotted with no complications using the legal description from Decision No. 68246 as referenced in the application (a copy of which is attached).

Also attached is a copy of the map for your files.

/lhm

Attachment

cc: Mr. Robert T. Hardcastle
Ms. Katrin Stukov
Ms. Deb Person (Hand Carried)
File

[illegible]

**Circle City Water Company, LLC
Docket No. W-03510A-13-0397
Application for Deletion**

SOUTHWESTERN STATES SURVEYING, INC.

Professional Land Surveying

Randy S. Delbridge, President

21415 North 23rd Avenue • Phoenix, Arizona 85027
Phone (623) 869-0223 Fax (623) 869-0726



DESCRIPTION FOR TOTAL AREA

Job no. 210750

April 13, 2005

Being all of Sections 5, 6, 7, 8, 9, 17, 18 and a portion of Section 4, Township 6 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

BEGINNING at the Southwest corner of said Section 18, being a G.L.O. Brass Cap;
THENCE North 00 degrees 01 minutes 37 seconds East, along the West line of the Southwest quarter of said Section 18 a distance of 2640.12 feet to the West quarter corner of said Section 18, being a G.L.O. Brass Cap;
THENCE North 00 degrees 02 minutes 20 seconds West, along the West line of the Northwest quarter of said Section 18 a distance of 2639.18 feet to the Northwest corner of said Section 18, being a G.L.O. Brass Cap;
THENCE North 00 degrees 00 minutes 00 seconds East, along the West line of said Section 7, a distance of 5284.62 feet to the Northwest corner of said Section 7, being a G.L.O. Brass Cap;
THENCE North 00 degrees 07 minutes 21 seconds East, along the West line of the Southwest quarter of said Section 6 a distance of 2640.71 feet to the West quarter corner of said Section 6, being a G.L.O. Brass Cap;
THENCE North 00 degrees 07 minutes 15 seconds West, along the West line of the Northwest quarter of said Section 6 a distance of 2636.20 feet to the Northwest corner of said Section 6, being a G.L.O. Brass Cap;
THENCE South 89 degrees 55 minutes 08 seconds East, along the North line of the Northwest quarter of said Section 6 a distance of 2499.21 feet to the North quarter corner of said Section 6, being a G.L.O. Brass Cap;
THENCE South 89 degrees 10 minutes 12 seconds East, along the North line of the Northeast quarter of said Section 6 a distance of 498.80 feet to the South quarter corner of Section 31, Township 7 North, Range 2 West, being a G.L.O. Brass Cap;
THENCE North 89 degrees 50 minutes 21 seconds East, continuing along the North line of the Northeast quarter of said Section 6 a distance of 2140.66 feet to the Northeast corner of Section 6, being a G.L.O. Brass Cap;
THENCE South 89 degrees 53 minutes 38 seconds East, along the North line of the Northwest quarter of said Section 5 a distance of 501.45 feet to the Southwest corner of said Section 32, Township 7 North, Range 2 West, being a G.L.O. Brass Cap;
THENCE South 89 degrees 54 minutes 32 seconds East, continuing along the North line of the Northwest quarter of said Section 5 a distance of 2148.21 feet to the North quarter corner of Section 5, being a G.L.O. Brass Cap;
THENCE North 89 degrees 07 minutes 14 seconds East, along the North line of the Northeast quarter of said Section 5 a distance of 499.67 feet to the South quarter corner of Section 32, Township 7 North, Range 2 West being a G.L.O. Brass Cap;
THENCE South 89 degrees 43 minutes 38 seconds East, continuing along the North line of the Northeast quarter of said Section 5 a distance of 2148.06 feet to the Northeast corner of said Section 5, being a G.L.O. Brass Cap;

EXHIBIT A

DECISION NO. 68246

Page 2
Total Description

THENCE North 89 degrees 58 minutes 03 seconds East, along the North line of the Northwest quarter of said Section 4 a distance of 497.01 feet to the Southwest corner of Section 33, Township 7 North, Range 2 West, being a G.L.O. Brass Cap;

THENCE South 89 degrees 57 minutes 12 seconds East, continuing along the North line of the Northwest quarter of said Section 5 a distance of 823.19 feet to the Northeast corner of G.L.O. Lot 4;

THENCE South 00 degrees 10 minutes 24 seconds East, along the East line of said Lot 4 a distance of 1352.71 feet to the Southeast corner of said Lot 4;

THENCE North 89 degrees 58 minutes 56 seconds East 2637.17 feet;

THENCE South 00 degrees 11 minutes 19 seconds East 660.77 feet;

THENCE North 89 degrees 57 minutes 42 seconds East 989.08 feet;

THENCE South 00 degrees 11 minutes 32 seconds East 660.42 feet;

THENCE North 89 degrees 56 minutes 29 seconds East 329.71 feet to the East quarter corner of said Section 4;

THENCE South 00 degrees 11 minutes 37 seconds West, along the East line of the Southeast quarter of said Section 4 a distance of 2641.22 feet to the Southeast corner of said Section 4, being a G.L.O. Brass Cap;

THENCE South 00 degrees 02 minutes 31 seconds West, along the East line of the Northeast quarter of said Section 9 a distance of 2638.28 feet to the East quarter corner of said Section 9, being a G.L.O. Brass Cap;

THENCE South 00 degrees 03 minutes 39 seconds West, along the East line of the Southeast quarter of said Section 9 a distance of 2635.85 feet to the Southeast corner of said Section 9, being a G.L.O. Brass Cap;

THENCE North 89 degrees 55 minutes 39 seconds West, along the South line of the Southeast quarter of said Section 9 a distance of 2638.78 feet to the South quarter corner of Section 9, being a G.L.O. Brass Cap;

THENCE North 89 degrees 54 minutes 43 seconds West, along the South line of the Southwest quarter of said Section 9 a distance of 2639.18 feet to the Southwest corner of Section 9, being a G.L.O. Brass Cap;

THENCE South 00 degrees 10 minutes 03 seconds West, along the East line of the Northeast quarter of said Section 17 a distance of 2637.41 feet to the East quarter corner of said Section 17, being a G.L.O. Brass Cap;

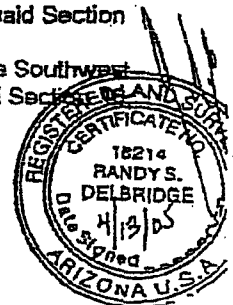
THENCE South 00 degrees 10 minutes 03 seconds West, along the East line of the Southeast quarter of said Section 17 a distance of 2637.41 feet to the Southeast corner of said Section 17, being a G.L.O. Brass Cap;

THENCE North 89 degrees 40 minutes 41 seconds West, along the South line of the Southeast quarter of said Section 17 a distance of 2638.22 feet to the South quarter corner of said Section 17, being a G.L.O. Brass Cap;

THENCE North 89 degrees 54 minutes 18 seconds West, along the South line of the Southwest quarter of said Section 17 a distance of 2640.09 feet to the Southwest corner of Section 17, being a G.L.O. Brass Cap;

THENCE North 89 degrees 57 minutes 37 seconds West, along the South line of the Southeast quarter of said Section 18 a distance of 2640.12 feet to the South quarter corner of said Section 18, being a G.L.O. Brass Cap;

THENCE North 89 degrees 56 minutes 11 seconds West, along the South line of the Southwest quarter of said Section 18 a distance of 2514.54 feet to the Southwest corner of said Section 18, being the Point of Beginning.



THE SOUTHEAST QUARTER OF SECTION 28
LEGAL DESCRIPTION

THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 3
WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY,
ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 28, MONUMENTED BY A
G.L.O. BRASS CAP;

THENCE NORTH 89°59'07" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST
QUARTER OF SAID SECTION 28, ALSO BEING THE BASIS OF BEARING, A
DISTANCE OF 2844.53 FEET TO THE SOUTH QUARTER CORNER OF SECTION 28
MONUMENTED BY A G.L.O. BRASS CAP

THENCE NORTH 00°01'21" WEST ALONG THE NORTH-SOUTH MID-SECTION LINE
OF SAID SECTION 28 A DISTANCE OF 2639.37 FEET TO THE CENTER OF
SECTION OF SAID SECTION 28, MONUMENTED BY A REBAR WITH RLS 9087 CAP;

THENCE NORTH 89°58'37" EAST ALONG THE EAST-WEST MID-SECTION LINE A
DISTANCE OF 2644.57 FEET TO THE EAST QUARTER CORNER OF SECTION 28,
MONUMENTED BY A G.L.O. BRASS CAP;

THENCE SOUTH 00°01'17" EAST ALONG THE EAST LINE OF THE SOUTHEAST
QUARTER OF SAID SECTION 28 A DISTANCE OF 2641.11 FEET TO THE
SOUTHEAST CORNER OF SECTION 28, BEING THE POINT OF BEGINNING;

THE ABOVE DESCRIPTION BASED ON AN A.L.T.A SURVEY BY SOUTHWESTERN
STATES SURVEYING, INC. DATED JUNE 28, 2004, JOB NUMBER 240694.



Blessing Chukwu

From: Garry Hays <ghays@lawgdh.com>
Sent: Wednesday, July 23, 2014 1:57 PM
To: Blessing Chukwu
Subject: CCWC Deletion W-03510A-13-0397
Attachments: LP5K LTR to Hardcastle 12-11-13.pdf

Ms. Chukwu,
Please find attached a letter that was sent from my client to Bob Hardcastle of CCWC. I am sending you this letter as a supplement to Staff's first set of data requests in the above referenced docket.
Thank you
Garry

garry hays

Garry Hays
Law Offices of Garry Hays PC
1702 E Highland Ave. Suite 204
Phoenix, Arizona 85016
602-308-0579 office
480-329-6143 cell

Note: This e-mail message and/or any attachments may be confidential and subject to attorney/client privilege. Use or dissemination of the message or any attachments by anyone other than the intended recipient is strictly prohibited and may violate federal or state law. If you are not the intended recipient, please immediately notify the sender and destroy the message, attachment(s), and all printed copies thereof. Thank you for your cooperation.

Lake Pleasant 500, L.L.C.
17700 N. Pacesetter Way, Suite 100
Scottsdale, AZ 85255
480.348.1118

December 11, 2013

VIA EMAIL TO RTH@BROOKEUTILITIES.COM AND REGULAR MAIL

Mr. Robert T. Hardcastle
Brooke Utilities, Inc.
P.O. Box 82218
Bakersfield, California 93380-2218

Re: Circle City Water Co. CC&N

Dear Bob:

I am writing in response to the application Circle City Water Company ("CCWC") filed at the Arizona Corporation Commission ("Commission") that requested a deletion of the Certificate of Convenience and Necessity ("CC&N") covering the Warrick 160 and Lake Pleasant 5000 LLC ("LP5K") property. I was extremely disappointed by your filing. As you are aware, LP5K intends to move forward with the development and is adamantly opposed to the deletion of the CC&N.

This letter will formally serve as a reiteration of the Request for Service letter received by CCWC on September 30, 2004 from LP5K. I advised you, in an email dated July 10, 2013 that LP5K intended to move forward and did not want the CC&N deleted. As you are aware, LP5K has a Water Facilities Agreement ("WFA") with CCWC and has met its contractual obligations under the WFA. In fact, in accordance with Section II, paragraph 5 of the WFA, LP5K paid CCWC \$67,782.61 on July 18, 2013. This payment was made and received when you were fully aware of LP5K's intentions. While you have attempted to get LP5K to sign a termination agreement, I have advised you numerous times that LP5K and its development partners are moving forward with this project.

LP5K will be filing an application for leave to intervene and will explain to the Commission the need for service and the desire to keep the CC&N in place. LP5K is ready and willing to present its case in front of the Commission. If there is any way we can resolve this matter without wasting the Commission's resources, please feel free to call me.

LAKE PLEASANT 5000 L.L.C.,

By: Harvard 5K, L.L.C., its Manager

By: Harvard Investments, Inc., its Manager

By: 
Christopher J. Cacheris, Vice President

EXHIBIT 8

1 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

2
3 In the Matter of:

) Docket No. 2015A-EMS-0190-DHS
) (EMS No. 4004)
)

4 **Maricopa Ambulance, LLC**

) NOTICE OF HEARING AND
) APPOINTMENT OF ADMINISTRATIVE
) LAW JUDGE
)

5
6 **Applicant.**

7
8 **PURSUANT TO** an application filed on November 7, 2014 ("the Application"),
9 Maricopa Ambulance, LLC ("Applicant") requests that the Director of the Arizona Department
10 of Health Services ("ADHS" or "Department") issue the Applicant an initial Certificate of
11 Necessity ("C.O.N.") for ground ambulance service. The Applicant proposes to provide
12 immediate response transports, scheduled interfacility and convalescent ambulance transports.
13 The proposed service area includes all of Maricopa County, with the exception of those
14 geographic areas covered by the Certificates of Necessity of Buckeye Valley Rural Volunteer
15 Fire District (C.O.N. No. 8), Fire District of Sun City West Ambulance Service (C.O.N. No.
16 114), Daisy Mountain Fire District (C.O.N. No. 105), Sun Lakes Fire District (C.O.N. No. 12),
17 Lifeline Ambulance Service Inc. (C.O.N. No. 62) and Superstition Fire & Medical District
18 (C.O.N. No. 137). The Applicant proposes to provide Advanced Life Support and Basic Life
19 Support services twenty-four hours per day, seven days per week.

20 ADHS, acting through the Bureau of Emergency Medical Services and Trauma System
21 ("BEMSTS"), is the agency within the State of Arizona empowered to administer a statewide
22 system of emergency medical services, which includes the certification and regulation of all
23 levels of emergency medical care technicians ("EMCTs") and the certification and regulation of
24 ambulance services in Arizona. ADHS' authority to consider this application for an initial
25 C.O.N. is established under the provisions of Title 36, Chapter 21.1 of the Arizona Revised
Statutes ("A.R.S.") §§ 36-2201-2264, and Arizona Administrative Code ("A.A.C.") R9-25-901,

1 *et. seq.* and A.A.C. R9-25-1101 *et seq.* Those statutes and regulations require that, before an
2 Applicant can operate an ambulance service in Arizona, it must be granted a C.O.N. by the
3 Director of ADHS ("Director").

4 **YOU ARE HEREBY NOTIFIED** that the Office of Administrative Hearings, on
5 behalf of the ADHS will conduct a prehearing conference on June 8, 2015 (11:00 a.m. – 12:00
6 p.m.) and a hearing on August 3, 2015 through August 7, 2015 (8:00 a.m. to 5:00 p.m.) in the
7 Office of Administrative Hearings' conference room located at 1400 West Washington, Suite
8 101, Phoenix, Arizona 85007, to consider the following issues related to this application:

9 A. Whether public necessity requires the service or any part of the service proposed by
10 the Applicant, and if such service would be in the public's best interest, as required by A.R.S. §
11 36-2233(B)(2), and A.A.C. R9-25-903.

12 B. Whether the Applicant is fit and proper to provide the services proposed, as required
13 by A.R.S. § 36-2233(B)(3). Fit and proper means that the Director determines that the
14 Applicant has the expertise, integrity, fiscal competence and resources to provide the proposed
15 ambulance service in the proposed service area. A.R.S. § 36-2201(21).

16 C. Whether the Applicant's proposed service area as set forth below is in the best
17 interests of the public, or if some other service area should be granted by the Director, as
18 required by A.R.S. § 36-2232(A)(3), A.R.S. § 36-2233(B)(2), A.R.S. § 36-2233(E), A.A.C. R9-
19 25-902 and A.A.C. R9-25-903.

20 **Proposed Service Area (in accordance with A.R.S. § 36-2233(E)(2)):**

21 Maricopa County, with the exception of those geographic areas covered by the
22 following municipal/government entity/fire district Certificates of Necessity:

- 23 1. Buckeye Valley Rural Volunteer Fire District (C.O.N. No. 8)
- 24 2. Fire District of Sun City West Ambulance Service (C.O.N. No. 114)
- 25 3. Daisy Mountain Fire District (C.O.N. No. 105)
4. Sun Lakes Fire District (C.O.N. No. 12)

1 5. Lifeline Ambulance Service Inc. (C.O.N. No. 62)

2 6. Superstition Fire & Medical District (C.O.N. No. 137)

3 The geographic area Maricopa Ambulance requests in its C.O.N. Application does
4 overlap the C.O.N. service area covered by Phoenix Fire Department (C.O.N. No.
5 76), American Medical Response of Maricopa, LLC (C.O.N. No. 136) and all
6 C.O.N. service areas covered by the Rural/Metro and its subsidiaries: Canyon State
7 Ambulance (C.O.N. No. 58), Southwest Ambulance and Rescue of Arizona (C.O.N.
8 No. 66), Southwest Ambulance-Maricopa (C.O.N. No. 86), Rural Metro Corp-
9 Maricopa (C.O.N. No. 109), Com Trans Ambulance Service, Inc. (C.O.N. No. 46),
10 Professional Medical Transport, Inc. (C.O.N. No. 71) and American Ambulance
11 (C.O.N. No. 75).

12 D. Whether the applicant's proposed rates and charges, as set forth below, are just,
13 reasonable, and sufficient or whether other rates and charges should be granted by the Director,
14 as required by A.R.S. §§ 36-2232(A)(1) and 36-2239; A.A.C. R9-25-902, A.A.C. R9-25-903
15 and A.A.C. R9-25-1101 *et. seq.*

16 **Proposed rates and charges:**

17 i. Advanced Life Support Base Rate	\$880.51
18 ii. Basic Life Support Base Rate	\$784.33
19 iii. Mileage Rate (Per Loaded Patient Mile)	\$18.26
20 iv. Standby Waiting Charge (per hour)	\$196.08
21 v. Subscription Service	NONE
22 vi. Disposable supplies, medical supplies	Per A.R.S. § 36-2239(D) and
23 and medication, and oxygen related costs	A.A.C. R9-25-1109

24 E. Whether the type and level of service proposed by the Applicant is in the best
25 interest of the public, as required by A.R.S. § 36-2201(11)(b)-(c); A.A.C. R9-25-903(A)(4),
 (B), (C), and R9-25-901(26) and (51).

1 F. Whether the response times proposed by the Applicant are in the best interest of the
2 public, as required by A.R.S. § 36-2232(A)(2), A.R.S. § 36-2233(B)(2), A.A.C. R9-25-901(35)
3 and (36), A.A.C. R9-25-902 and A.A.C. R9-25-903, and A.A.C. R9-25-906.

4 **Proposed Response Times:**

5 I. For any of the Cities within Maricopa County where Maricopa Ambulance
6 has a filed suboperation station with ADHS-BEMSTS, the following fractal
7 response times will apply:

8 a. Ten (10) minutes on ninety (90) percent of all ambulance calls.

9 b. Fifteen (15) minutes on ninety-five (95) percent of all ambulance calls.

10 c. Twenty (20) minutes on one hundred (100) percent of all ambulance
11 calls.

12 II. Otherwise

13 a. Ten (10) minutes on eighty (80) percent of all ambulance calls.

14 b. Fifteen (15) minutes on ninety (90) percent of all ambulance calls.

15 c. Twenty (20) minutes on one hundred (100) percent of all ambulance
16 calls.

17 G. Whether the Applicant has addressed or will provide the necessary information set
18 forth in A.A.C. R9-25-902 and as required by A.R.S. § 36-2233.

19 H. If the initial C.O.N. is approved, will the C.O.N. holder begin using e-PCR
20 technology?

21 I. If the initial C.O.N. is approved, will the C.O.N. holder begin submitting e-PCR data
22 to the AZ-PIERS system?

23 J. If the initial C.O.N. is approved, will the C.O.N. holder fully participate in the
24 Premier EMS Agencies program?
25

1 K. If the initial C.O.N. is approved, will the C.O.N. holder fully participate in Bureau
2 of EMS and Trauma System quality improvement initiatives including but not limited to
3 SHARE and E.P.I.C.-TBI?

4 L. If the initial C.O.N. is approved, will the C.O.N. holder have at least one (1)
5 manager attend and participate in the Arizona Emergency Medical Services Council, in
6 Arizona's Central Regional Council (Arizona Emergency Medical System)), and in the Arizona
7 Ambulance Association?

8 Details of the Applicant's request are open to the public and are contained in its
9 application on file with the Clerk of the Department, Office of Administrative Counsel and
10 Rules, Arizona Department of Health Services, 1740 West Adams, Room 203, Phoenix,
11 Arizona 85007.

12 **YOU ARE ADVISED** that the hearing will be conducted under the authority of, and in
13 accordance with Arizona Revised Statutes Title 36, Chapter 21.1 and Title 41, Chapter 6,
14 Article 10, and A.A.C. Title 9, Chapter 25, Articles 9 and 11.

15 **YOU ARE FURTHER ADVISED** that failure to appear at the scheduled hearing may
16 result in the administrative law judge dismissing the matter or otherwise deciding the case
17 against you.

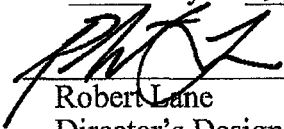
18 **THE OFFICE OF ADMINISTRATIVE HEARINGS** has appointed Diane Mihalsky,
19 Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona
20 85007, as administrative law judge, to conduct such hearings and issue such orders, pursuant to
21 the Office of Administrative Hearings' procedural rules and the procedural rules that the
22 administrative law judge determines are necessary to properly adjudicate the above captioned
23 matter. **Information regarding procedures, practice pointers, online filing of motions, such**
24 **as making requests to appear telephonically is available through the Office of**
25 **Administrative Hearings' website at www.azoah.com.**

1 In accordance with A.R.S. § 41-1092.08, the administrative law judge shall submit to
2 the Director, a written recommendation, including proposed findings of fact, conclusions of the
3 law and recommended decision regarding the disposition of this matter.

4 The original of all correspondence and pleadings to be filed in the matter should be
5 directed to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
6 AZ 85007, with copies to all other parties and to the agency at the address listed below.

7 Persons with a disability may request a reasonable accommodation, such as a sign
8 language interpreter, by visiting www.azoah.com and submitting an on-line motion, by mail
9 to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona
10 85007, or by calling (602) 542-9826. Requests should be made as early as possible to allow
11 time to arrange the accommodation.

12
13
14 Dated this 20th day of April, 2015

15 
16 Robert Lane
Director's Designee
17
18
19
20
21
22
23
24
25

1 Original filed this 20th day of April, 2015, with:

2 Clerk of the Department
3 Arizona Department of Health Services
4 1740 W. Adams, Room 203
5 Phoenix, AZ 85007

6 Copy of the foregoing sent by certified mail, return receipt
7 requested this 21st day of April, 2015 to:

8 Bryan Gibson
9 MARICOPA AMBULANCE, LLC
10 23200 N Pima Rd. Ste 101
11 Scottsdale, AZ 85255

12 Copies of the foregoing sent by interdepartmental mail
13 or regular mail this 21st day of April, 2015 to:

14 Bryan Gibson
15 MARICOPA AMBULANCE, LLC
16 23200 N Pima Rd. Ste 101
17 Scottsdale, AZ 85255

18 Cara Christ, Deputy Director
19 ADHS/Public Health Services
20 150 N. 18th Ave., Suite 510
21 Phoenix, AZ 85007

22 Don Herrington, Assistant Director
23 ADHS/Public Health Services
24 150 N. 18th Ave., Suite 505
25 Phoenix, AZ 85007

Todd Jaramillo, MHA
Ambulance Services, Certification, & Enforcement Manager
ADHS/Bureau of Emergency Medical Services & Trauma System
150 N. 18th Avenue, Suite 540
Phoenix, Arizona 85007-3248
Telephone: (602) 364-3165
FAX: (602) 364-3567

Kevin Ray, Patricia LaMagna,
and Laura Flores
Office of the Attorney General
1275 W. Washington
Phoenix, AZ 85007

1 Debbie Johnson, Director, Vice President, Advocacy
2 Arizona Hospital and Healthcare Association
2800 N. Central Ave., Suite 1450
Phoenix, AZ 85004-1051

3 Victoria Burns
4 AHCCCS, MD 6600
P.O. Box 25520
5 Phoenix, AZ 85002

6 Nancy Bonnell, Unit Chief
Antitrust Unit
7 Office of the Attorney General
1275 W. Washington
8 Phoenix, AZ 85007
Telephone: (602) 542-7768
9 FAX: (602) 542-9088

10 Mike Duran, Fire Chief
11 Buckeye Valley Rural Volunteer Fire Dist. dba
BUCKEYE VALLEY VOLUNTEER RESCUE UNIT
12 P.O. Box 75
Buckeye, AZ 85326

13 Robert Biscoe, Fire Chief
14 Fire District of Sun City West dba
FIRE DISTRICT OF SUN CITY WEST AMBUL. SERVICE
15 18818 N. Spanish Garden Dr.
16 Sun City West, AZ 85375

17 Mark Nichols, Fire Chief
DAISY MOUNTAIN FIRE DISTRICT
18 515 E. Carefree Highway, PMB 385
Phoenix, AZ 85085

19 Paul S. Wilson, Fire Chief
20 SUN LAKES FIRE DISTRICT
25020 S. Alma School Rd.
21 Sun Lakes, AZ 85248

22 Glenn Kasprzyk, COO
23 LIFE LINE AMBULANCE SERVICE, INC.
1099 W. Iron Springs Rd.
24 Prescott, AZ 86305

1 Pamela Wayne, Ambulance Billing Supervisor
City of Phoenix dba
2 CITY OF PHOENIX ETS
(EMERGENCY TRANSPORT SYSTEM)
3 150 S. 12th St.
Phoenix, AZ 85034

4 Jim Roeder, Director of Compliance
5 R/M Arizona Holdings, INC.
dba CANYON STATE AMBULANCE
6 dba Payson Medical Transport
dba Lifestar EMS
7 222 E. Main St.
8 Mesa, AZ 85201

9 John P. Karolzak, Vice President of Operations-Arizona
Southwest General, Inc. dba
10 SOUTHWEST AMBULANCE
AND RESCUE OF ARIZONA
11 222 E. Main St.
Mesa, AZ 85201

12 John P. Karolzak, Vice President of Operations-Arizona
13 Southwest General, Inc. dba
SOUTHWEST AMBULANCE (MARICOPA)
14 222 E. Main St.
15 Mesa, AZ 85201

16 John P. Karolzak, Vice President of Operations-Arizona
RURAL/METRO CORP. (MARICOPA)
17 dba Rural/Metro Ambulance Service
222 E. Main St.
18 Mesa, AZ 85201

19 Jim Roeder, Director of Compliance
Comtrans Ambulance Service dba
20 AMERICAN COMTRANS
222 E. Main St.
21 Mesa, AZ 85201

22 Jim Roeder, Director of Compliance
23 AMERICAN AMBULANCE
222 E. Main St.
24 Mesa, AZ 85201

25 Jim Roeder, Director of Compliance
PROFESSIONAL MEDICAL TRANSPORT, INC (PMT)
222 E. Main St.
Mesa, AZ 85201

1 Glenn Kasprzyk, General Manager
2 AMERICAN MEDICAL RESPONSE OF
3 MARICOPA, LLC
4 1009 W. Iron Springs Rd.
5 Prescott, AZ 86305

6 Paul Bourgeois, Fire Chief
7 SUPERSTITION FIRE & MEDICAL DISTRICT
8 565 N. Idaho
9 Apache Junction, AZ 85119

10 Thomas Birch, Fire Chief
11 Black Canyon Fire District dba
12 BLACK CANYON FIRE DEPARTMENT
13 P.O. Box 967
14 Black Canyon City, AZ 85324-0967

15 Lonnie Guthrie, Service Director
16 AJO AMBULANCE, INC.
17 1850 N. Ajo-Gila Bend Hwy
18 Ajo, AZ 85321

19 Fred Baldrige, Fire Chief
20 Town of Gila Bend dba
21 GILA BEND RESCUE/AMBULANCE
22 P.O. Box A
23 Gila Bend, AZ 85337

24 John Valentine, General Manager
25 RIVER MEDICAL, INC.
415 El Camino Way
Lake Havasu City, AZ 86403

John P. Karolzak, Vice President of Operations-Arizona
RURAL/METRO CORP. (YUMA)
222 E. Main St.
Mesa, AZ 85201

John P. Karolzak, Vice President of Operations-Arizona
SOUTHWEST AMBULANCE
OF CASA GRANDE, INC.
222 E. Main St.
Mesa, AZ 85201

Dominic "Nick" Renon, Fire Chief
TRY-CITY FIRE DISTRICT AMBULANCE SERVICE
4280 E. Broadway
Claypool, AZ 85532

1 Steven Holt, Fire Chief
2 TONTO BASIN FIRE DISTRICT
3 P.O. Box 48
4 Tonto Basin, AZ 85553

5 Richard Nix, EMS Chief
6 TRI-VALLEY AMBULANCE SERVICE, INC.
7 P.O. Box 958
8 29118 E. Los Angeles
9 Wellton, AZ 85356-0958

10 Jim Jobusch, Fire Chief
11 Town of Gilbert dba
12 GILBERT FIRE AND RESCUE DEPARTMENT
13 85 E. Civic Center Dr.
14 Gilbert, AZ 85296

15 Ron Knight, Fire Chief
16 Town of Queen Creek dba
17 QUEEN CREEK FIRE AND MEDICAL DEPARTMENT
18 22358 Ellsworth Rd.
19 Queen Creek, AZ 85142

20 Greg Ruiz, Fire Chief
21 City of Tempe dba
22 TEMPE FIRE MEDICAL RESCUE
23 PO Box 5002
24 Tempe, AZ 85280

25 Michael Thompson, Chief
Sun City Fire District dba
SUN CITY FIRE AND MEDICAL DEPARTMENT
18602 N. 99th Ave.
Sun City, AZ 85373

Mark Burdick, Fire Chief
GLENDALE FIRE DEPARTMENT
6829 N 58th Dr.
Glendale, AZ 85301

Thomas Abbott, Fire Chief
SURPRISE FIRE-MEDICAL DISTRICT
14250 W. Statler Plaza, Ste. 101
Surprise, AZ 85374

1 Harry Beck, Fire Chief
2 MESA FIRE & MEDICAL DEPARTMENT
3 13 W. 1st St.
4 Mesa, AZ 85201

5 Bob Costello, Fire Chief
6 City of Buckeye dba
7 CITY OF BUCKEYE FIRE – MEDICAL – RESCUE DEPARTMENT
8 21699 W. Yuma Rd., Ste. 101
9 Buckeye, AZ 85326

10 Neal Thomas, Manager
11 ABC AMBULANCE, LLC
12 2336 E. Magnolia St.
13 Phoenix, AZ 85034

14 Diane Mihalsky, Administrative Law Judge
15 Office of Administrative Hearings
16 1400 W. Washington, Suite 101
17 Phoenix, AZ 85007

EXHIBIT 9

Brooke Utilities, Inc.

Monthly Financial Package

July 31st, 2015

REPORTS INCLUDED:

- **Balance Sheet:**

- Brooke Utilities, Inc.
- Brooke Water Co.
- Circle City Water Co.

- **Income Statement by Object:**

- Brooke Utilities, Inc.
- Brooke Water Co.
- Circle City Water Co.

- **Vacancy Report**

- **Consumption Report**

- **Work papers**

Brooke Utilities

Receivables

- Other Receivables
- Notes Receivables

Prepays

- Prepaid Insurance
- Prepaid Charges and Fees

Accounts Payable

- Accounts payable report

Accrued Liabilities

- Wages payables
- Bonus payable

Brooke Water

- CAP X AFE Report
- Receivables

Prepays

- Prepaid Water Contract Charges
- Prepaid Insurance

Accrued Liabilities

- Customer Security Deposits
- Meter Deposits

Circle City

- Cap X AFE Report
- Receivables

Prepays

- Prepaid Water Contract Charges
- Prepaid Insurance

Accrued Liabilities

- Customer Security Deposits
- Meter Deposits

- **Truck Mileage Report**
- **Overtime Report**
- **Call Center Metrics**
- **Cash Disbursement Journal**

Useful links:

WorkOrders ► <http://webportal/bui/Work%20Orders/Forms/AllItems.aspx?RootFolder=%2fbui%2fWork%20Orders%2fWork%20Orders%2fYear%2f2014&FolderCTID=&View=%7bE1D9D337%2dBBF0%2d4B64%2dBC52%2d0CDD10707ED0%7d>

AFE ►

<http://webportal/ACCTG/fixedassets/Authorization%20for%20Expenditure/Forms/AllItems.aspx>

CallCenterMetrics: ►

<http://webportal/ls/Shared%20Documents/Forms/AllItems.aspx?RootFolder=%2fls%2fShared%20Documents%2fCALL%20CENTER%20METRICS%2fBUI%2f2014&FolderCTID=&View=%7bD8835129%2dC023%2d4A6E%2dA7C2%2d3ED7C297F9DC%7d>

ServiceOrder ►

<http://webportal/bui/Service%20Orders/Forms/AllItems.aspx?RootFolder=%2fbui%2fService%20Orders%2f2014&FolderCTID=&View=%7b66CF2D4C%2dE406%2d44E6%2dB049%2dDCFEDE916FFF%7d>

Circle City Co., LLC
Balance Sheet

	<u>07/31/15</u>	<u>12/31/14</u>
ASSETS		
WATER UTILITY PLANT		
Utility Plant in Service	\$609,050	\$609,050
Less: Accum Depreciation & Amortization	<u>(275,675)</u>	<u>(258,057)</u>
WATER UTILITY PLANT, NET	333,375	350,992
OTHER UTILITY ASSETS	<u> </u>	<u> </u>
CURRENT ASSETS		
Cash and Equivalents	10,614	49,806
Cash Payable to BUI	(33,730)	(41,011)
Receivables	521	2,862
Prepaid and Other	<u>36,202</u>	<u>44,300</u>
TOTAL CURRENT ASSETS	<u>13,607</u>	<u>55,958</u>
TOTAL ASSETS	<u>\$346,982</u>	<u>\$406,950</u>
LIABILITIES AND EQUITY		
EQUITY		
Partners Capital	(712,847)	(634,774)
Current Year Net Income (Loss)	<u>(54,710)</u>	<u>(78,073)</u>
TOTAL EQUITY	(767,557)	(712,847)
CURRENT LIABILITIES		
Notes Payables - BUI	872,765	872,765
Taxes Payables	1,611	0
Accrued Liabilities	<u>6,510</u>	<u>6,231</u>
TOTAL CURRENT LIABILITIES	880,886	878,995
DEFERRED CREDITS		
Unearned Revenue	3,010	1,972
Contributions in Aid of Construction (CIAC)	286,611	286,611
A/A Contribution in Aid of Construction	<u>(55,967)</u>	<u>(47,781)</u>
TOTAL DEFERRED CREDITS	233,653	240,801
LONG TERM DEBT	<u> </u>	<u> </u>
TOTAL LIABILITIES & EQUITY	<u>\$346,982</u>	<u>\$406,950</u>

Circle City Co., LLC
Income Statement Report by Object
July 31, 2015

	LAST YEAR	LAST YTD	CURRENT YTD	JUL 2015	JUN 2015	MAY 2015	APR 2015
OPERATING REVENUE							
Metered Sales Residential	\$57,666	\$35,962	\$29,560	\$4,910	\$4,619	\$4,385	\$4,279
Metered Sales Commercial	1,690	1,030	1,200	100	100	109	214
Establishment Charge	775	475	275	25	0	50	50
Late Fees	89	68	41	9	10	8	7
Other Revenues	50	50	100	100	0	0	0
TOTAL OPERATING REVENUES	60,270	37,585	31,177	5,144	4,730	4,551	4,550
OPERATING EXPENSES							
Hourly	5,503	3,988	4,943	755	833	537	604
Salary - Overtime	480	264	301	177	124	0	0
Payroll taxes - FICA	339	241	306	56	57	31	36
Payroll taxes - Medicare	79	56	71	13	13	7	8
Payroll taxes - FUTA	7	7	9	0	0	0	1
Payroll taxes - SUI	29	29	40	0	0	0	7
Benefits - Workers Compensation	75	56	69	12	9	7	13
Benefits - Health Insurance	987	715	671	73	75	83	115
Benefits - Life Insurance	11	8	10	2	1	1	2
Property Taxes	2,762	2,113	1,611	230	230	230	230
Gas/Electricity	9,575	5,337	5,493	974	859	832	780
Water/Sewer	223	223	0	0	0	0	0
Telephone	256	164	51	0	15	12	0
Other Communications	173	97	40	0	40	0	0
Travel - Commercial	569	513	357	357	0	0	0
Airplane Rental	621	0	459	0	0	0	459
Travel - Rental Cars	63	63	88	0	0	0	88
Travel - Gasoline and Oil	1,389	813	202	0	0	0	102
Meals	137	137	11	0	0	0	11
LODGING	270	270	0	0	0	0	0
Office Supplies	55	55	12	0	0	0	0
Postage and Freight	1,470	786	1,506	142	333	139	138
Utilities Plant - Mains	2,686	1,317	1,089	0	885	0	0
Utilities Plant - Meters	504	504	0	0	0	0	0
Utilities Plant - Storage Tanks	0	0	580	0	580	0	0
Utilities Plant - Wells & Springs	0	0	1,090	0	0	0	1,090
Small Tools and Equipment	11	11	0	0	0	0	0
Account Analysis Fees	1,166	656	425	60	52	51	68
Network Access Fees	102	64	91	13	12	11	12
Tech Support Fees	83	0	583	83	83	83	83
Contractual Services - Lightstorm S.A	4,581	2,732	2,095	305	585	0	334
Advertising and Promotion - Newspaper	528	0	0	0	0	0	0
Organization & Memberships Dues	274	274	0	0	0	0	0
Software License Fees	1,000	583	0	0	0	0	0
Licenses and Permits	1,070	0	0	0	0	0	0
Write Off	347	236	(111)	0	0	0	0
Materials and Supplies	773	773	0	0	0	0	0
Regulatory Water Testing	1,914	1,006	2,136	15	15	(179)	1,850
Sales tax Expense	5	5	0	0	0	0	0
Property and Casualty Insurance	795	507	424	61	61	61	61
Management Fees	1,833	1,167	1,167	167	167	167	167
Purchased Water	0	0	177	0	0	177	0
TOTAL OPERATING EXPENSES	42,745	25,771	25,994	3,495	5,030	2,250	6,259
EARNINGS BEFORE INCOME TAX,	17,525	11,814	5,182	1,649	(300)	2,300	(1,709)
Depreciation & Amortization	16,955	9,435	9,431	1,152	1,308	1,310	1,417
INCOME (LOSS) FROM OPERATIO	570	2,379	(4,249)	497	(1,608)	991	(3,125)
OTHER INCOME (EXPENSE)							
CAP Water Contract Expenses	78,640	45,873	50,461	7,209	7,209	7,209	7,209
Interest Expense	(2)	(1)	0	0	0	0	0
TOTAL OTHER INCOMES(EXPENS	78,642	45,875	50,461	7,209	7,209	7,209	7,209
NET INCOME (LOSS)	(\$78,073)	(\$43,495)	(\$54,710)	(\$6,712)	(\$8,817)	(\$6,218)	(\$10,334)

Brooke Utilities Inc.
Monthly Locations Count Report
July 31st, 2015

Company	Water System	Zone ID	April 2015				May 2015				June 2015				July 2015			
			Total	Active	Vacant	%	Total	Active	Vacant	%	Total	Active	Vacant	%	Total	Active	Vacant	%
Brooke Water:																		
	Moovahya Keys	11-MK	590	556	34	6%	590	558	32	5%	590	557	33	6%	590	555	35	6%
	Lakeside	11-LS	1,049	805	244	23%	1,049	802	247	24%	1,050	802	248	24%	1,050	799	251	24%
	Marina Village	11-MV	242	225	17	7%	242	225	17	7%	242	225	17	7%	242	225	17	7%
	Parker Dam	11-PD	210	193	17	8%	210	193	17	8%	210	192	18	9%	210	192	18	9%
	Rio Lindo Shores	11-RL	32	31	1	3%	32	31	1	3%	32	31	1	3%	32	31	1	3%
	Holiday Harbor	11-HH	255	230	25	10%	255	227	28	11%	255	227	28	11%	255	227	28	11%
	TOTAL		2,378	2,040	338	14%	2,378	2,036	342	14%	2,379	2,034	345	15%	2,379	2,029	350	15%
Circle City Water:																		
	Circle City Water	17-CC	225	189	36	16%	225	189	36	16%	225	190	35	16%	225	189	36	16%
	TOTAL		225	189	36	16%	225	189	36	16%	225	190	35	16%	225	189	36	16%
	TOTAL		2,603	2,229	374	30%	2,603	2,225	378	30%	2,604	2,224	380	30%	2,604	2,218	386	31%

Brooke Utilities Inc.
Monthly Consumption Report
July 31st, 2015
 Figures Expressed in Gallons

Company Water System		Zone ID	NOV. 2014	DEC. 2014	TOTAL 2014	%	JAN. 2015	FEB. 2015	MAR. 2015	APR. 2015	MAY 2015	JUN. 2015	JULY 2015
Brooke Water:													
23 Moovayla Keys	11-MK		1,829,936	1,587,869	24,879,216	22%	1,425,293	1,488,319	1,526,452	1,663,876	1,595,774	1,998,103	2,240,086
20 Lakeside	11-LS		2,040,326	1,939,564	30,642,026	27%	1,771,565	1,799,910	1,851,762	2,080,187	2,221,100	2,036,868	2,660,891
25 Marina Village	11-MV		884,000	800,826	13,505,399	12%	762,158	807,567	853,239	844,354	910,944	2,232,274	-21,334
21 Parker Dam	11-PD		684,612	665,714	9,151,909	8%	656,234	571,710	585,340	677,990	607,380	1,520,730	0
24 Rio Lindo Shores	11-RL		158,890	191,010	2,314,260	2%	154,820	171,400	164,890	177,950	164,460	334,490	0
22 Holiday Harbor	11-HH		1,332,946	1,270,196	18,123,097	16%	1,174,026	1,291,270	1,349,970	1,391,064	1,319,600	2,765,190	1,010
TOTAL			6,930,710	6,455,179	98,615,907	86%	5,944,096	6,130,176	6,331,653	6,835,421	6,819,258	10,887,655	4,880,653
Circle City Water:													
26 Circle City Water	17-CC		1,182,599	1,008,552	15,991,412	14%	888,239	1,051,256	1,152,348	1,194,731	1,178,049	1,305,026	1,454,074
TOTAL			1,182,599	1,008,552	15,991,412	14%	888,239	1,051,256	1,152,348	1,194,731	1,178,049	1,305,026	1,454,074

72 5000

Brooke Water LLC - Circle City Water Co. LLC

Balance Sheet Account Reconciliation

Account 1200.01 - Trade Receivables Summary

July 31st, 2015

***** SUMMARY *****						
Zone	Current	30-60	60-90	90+	TOTAL RECEIVABLE	Unearned Revenues (AP) CONSOLIDATED AR/AP TOTAL
11-LS	\$2,978.63	\$162.78	\$77.58	\$0.69	\$3,219.68	(\$15,264.68) (\$12,045.00)
11-PD	\$26.90	\$381.99	\$0.00	\$0.00	\$408.89	(\$2,678.58) (\$2,269.69)
11-HH	\$18.18	\$647.48	\$48.60	\$0.00	\$714.26	(\$3,787.29) (\$3,073.03)
11-MK	\$878.27	\$104.77	\$0.00	\$0.00	\$983.04	(\$13,428.89) (\$12,445.85)
11-RL	\$0.00	\$0.04	\$0.00	\$0.00	\$0.04	(\$730.12) (\$730.08)
11-MV	\$182.87	\$529.83	\$0.00	\$0.00	\$712.70	(\$4,939.84) (\$4,227.14)
BWCo	\$4,084.85	\$1,826.89	\$126.18	\$0.69	\$6,038.61	(\$40,829.40) (\$34,790.79)
TOTAL	\$4,084.85	\$1,826.89	\$126.18	\$0.69	\$6,038.61	(\$40,829.40) (\$34,790.79)

G/L	\$6,038.61
Difference	\$0.00

Circle City Water Company
Balance Sheet Account Reconciliation
Accounts 1650.00-1690.xx (CAP-AFE detail)
As of July 31st, 2015

Acct No.	Description	Beginning Balance 2014	Posting Date	AFE #	***** YEAR 2015 *****				Acquisitions/ Disposals	Balance As of July 31st, 2015		
					Assets	Liabilities	Equity	Debits				
304	Structures and Improvements	388,432.74							-	388,432.74	-	-
309	Supply Mains	207,205.95							-	207,205.95	0.00	0.00
311	Pumping Equipment	12,816.06								12,816.06		
334	Meters	594.90								594.90		
	TOTALS	609,049.65							-	609,049.65	-	-

G/L Difference
609,049.65

Comments

No AFE'S approved for this period.

Circle City Water Co., LLC

Balance Sheet Account Reconciliation

Account 1400.10 - Prepaid CAP Water Contract Charges

July 31st, 2015

MONTH	Additions	Deletions	Reference	BALANCE
Year End 2014	\$43,252.04			43,252.04
JAN2015	\$0.00	(\$7,208.67)	Monthly Amortization	\$36,043.37
FEB2015	\$0.00	(\$7,208.67)	Monthly Amortization	\$28,834.70
MAR2015	\$0.00	(\$7,208.67)	Monthly Amortization	\$21,626.03
APR2015	\$0.00	(\$7,208.67)	Monthly Amortization	\$14,417.36
MAY2015	\$43,252.00	(\$7,208.67)	Monthly Amortization	\$50,460.69
JUN2015	\$0.00	(\$7,208.67)	Monthly Amortization	\$43,252.02
JUL2015	\$0.00	(\$7,208.67)	Monthly Amortization	\$36,043.35
AUG2015	\$0.00	\$0.00	Monthly Amortization	\$36,043.35
SEP2015	\$0.00	\$0.00	Monthly Amortization	\$36,043.35
OCT2015	\$0.00	\$0.00	Monthly Amortization	\$36,043.35
NOV2015	\$0.00	\$0.00	Monthly Amortization	\$36,043.35
DEC2015	\$0.00	\$0.00	Monthly Amortization	\$36,043.35

\$43,252.00	(\$50,460.69)	G / L	\$36,043.35
	26.01.7171.00	Difference	\$0.00

Circle City Water Co, LLC

Account 1400.02 - Prepaid Insurance

31-Jul-15

[illegible]

Balance Sheet Account Reconciliation
Account 1400.04 - Prepaid Charges and Fees
31-Jul-15

[illegible]

Circle City L.L.C

Balance Sheet Account Reconciliation

Account 2500.20 - Customer Security Deposit

July 31st, 2015

***** SUMMARY *****				
Zone	Beginning Balance	Additions	Deletions	Ending Balance
17-CC	\$3,361.92	\$53.00	\$0.00	\$3,414.92
CCCo	\$3,361.92	\$53.00	\$0.00	\$3,414.92
TOTAL	\$3,361.92	\$53.00	\$0.00	\$3,414.92
				\$3,414.92
				\$0.00

Circle City L.L.C

Balance Sheet Account Reconciliation

Account 2500.21 - Refundable Meter Deposit Summary

July 31st, 2015

***** SUMMARY *****				
Zone	Beginning Balance	Additions	Deletions	Ending Balance
17-CC	\$3,095.00	\$0.00	\$0.00	\$3,095.00
CCCo	\$3,095.00	\$0.00	\$0.00	\$3,095.00
TOTAL	\$3,095.00	\$0.00	\$0.00	\$3,095.00
				\$3,095.00
				\$0.00